

Exhibit E
(Deposition of Bryan Repetto, Relevant Excerpts)

COPY Page 1

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

BRYAN REPETTO,

Plaintiff,

v.

ST. MATTHEW'S UNIVERSITY, INC., and
ST. MATTHEW'S UNIVERSITY (CAYMAN),

Defendants.

CIVIL ACTION

Docket No. 08-CV-101

DEPOSITION of BRYAN REPETTO, taken pursuant to
notice dated August 21, 2008, at the law offices of
Murray, Plumb & Murray, 75 Pearl Street, Portland, Maine, on
September 19, 2008, commencing at 10:58 a.m., before Cindy
Packard, Registered Diplomate Reporter, a Notary Public in
and for the State of Maine.

APPEARANCES:

For the Plaintiff:

For the Defendants:

Barbara L. Goodwin, Esq.

Gail E. Cornwall, Esq.

Daryl J. Lapp, Esq.

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Deponent: BRYAN REPETTO

Examination by:

Ms. Cornwall

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1 A Not exclusively. I did always want to return to
2 California. But it was never set into stone especially
3 for residency.
4 Q Okay. So those weren't the only two places you wanted
5 to practice?
6 A They were the preferred places.
7 Q Okay. And what year did you graduate high school?
8 A 1998.
9 Q Me, too. And after graduation, did you go straight to
10 Sonoma State?
11 A Yes, I did.
12 Q When did you end up leaving?
13 A At the end of the first year.
14 Q Why?
15 A Just wanted a larger school, school had more research
16 opportunities. Career goals became more defined.
17 Q Okay. And I'm a little confused on the sequencing, did
18 you go to Skyline after you left Sonoma?
19 A No, not entirely. Sonoma State isn't very far from
20 Skyline College. So my second semester at Sonoma
21 State, I enrolled in an EMT program at Skyland College,
22 so at that time I was concurrently enrolled in both
23 schools. In the -- after I left Sonoma State in the
24 summer, I took some summer courses at Skyline before
25 going to the University of Nevada.

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STIPULATION

1 It is hereby agreed by and between the parties
2 that signature is not waived.
3

5 BRYAN REPETTO, having been duly sworn by the Notary
6 Public, was examined and deposed as follows:

EXAMINATION

BY MS. CORNWALL:

9 Q A couple times I'm going to try to set up just a basic
10 time line?

11 A Okay.

12 Q I'll go through things quickly, and then don't worry
13 about skipping over major events because I'm going to
14 come back in more detail?

15 A Okay.

16 Q So you grew up in California; right?

17 A That's correct.

18 Q Whereabouts?

19 A San Bruno.

20 Q What high school did you go to?

21 A Junipero Serra High School.

22 Q That was just personal curiosity, I went to Woodside.

23 A Okay. I know where that is.

24 Q So you hoped to practice medicine in California and
25 Texas because you had family there?

Page 5

1 Q And then that following fall, you went directly to the
2 University of Nevada?
3 A Yes, that's where I graduated.
4 Q Okay. So just to recap, we had overlap between Sonoma
5 and Skyline in the spring, just Skyline in the summer,
6 and then straight to Nevada in the fall?
7 A Right.
8 Q Okay. Did you graduate with a degree from the
9 University of Nevada?
10 A I did.
11 Q Was it a BS or BA?
12 A It was a BS.
13 Q And what year would that have been?
14 A 2002.
15 Q Okay. And then after graduation, you worked as an EMT?
16 A No. I was never employed as an EMT.
17 Q Okay. So you got your EMT training at --
18 A Skyline College.
19 Q Skyline. But you didn't actually work as an EMT?
20 A No.
21 Q Okay. And what made you decide to apply to medical
22 school?
23 A Number of things. I was interested in the career path.
24 I was interested in the science behind the practice of
25 medicine. I found the entire career very appealing.

Page 6

1 Q Did you ever have an idea of what specialty you wanted
2 to practice in, what you wanted to do with your degree?
3 A I had some ideas. I always wanted to have my own
4 practice, that was something that was always well
5 defined. And I saw myself either in a subspecialty of
6 maybe internal medicine or perhaps some surgical
7 specialty.
8 Q Okay. And when did you decide to apply to medical
9 school?
10 A By that do you mean when did I actually have it formed
11 in my mind I would ultimately be applying to medical
12 school?
13 Q Why don't we work backwards. When did you apply to
14 medical school?
15 A I applied to Ross University in 2003.
16 Q 2003. Okay. And what did you do between 2001 and
17 2003?
18 A I was still at the University of Nevada.
19 Q Right. So you graduated in spring, '02?
20 A No, I graduated in December of '02.
21 Q December, '02. I should have specified. You graduated
22 in December, '02, and then you started at Ross in
23 January, '03?
24 A No, I started at Ross in May of 2003.
25 Q So what did you do from December to May?

Page 7

1 A From December until May, I was employed, and I was
2 enrolled in graduate coursework at the University of
3 Nevada.
4 Q And what graduate coursework?
5 A I was an undeclared graduate student, and I was taking
6 biological science courses, coursework, coursework that
7 paralleled medical -- the medical curriculum.
8 Q Okay. And what were you employed as during that time?
9 A I was employed as a surgical orderly at St. Mary's
10 Health Network.
11 Q Okay. I think that's probably where I got the idea
12 that you were an EMT for a little while. So you had
13 surgical orderly employment while doing some undeclared
14 graduate coursework at University of Nevada?
15 A Right.
16 Q When did you send your application to Ross?
17 A I believe it would have been sometime around maybe
18 February or March of 2003. I don't recall the exact
19 date, but it was early in -- it was early 2003.
20 Q Okay. Did you apply anywhere else or just to Ross?
21 A I applied to other graduate programs, and I applied to
22 some post baccalaureate programs at some osteopathic
23 medical schools prior to applying to Ross.
24 Q Do you remember what -- could you run down a list of
25 those programs for me?

Page 8

1 A Sure. I applied to the post baccalaureate program at
2 Lake Erie College of Osteopathic Medicine.
3 Q Okay.
4 A I applied to a master's program, I don't recall the
5 exact title of degree at the Philadelphia College of
6 Osteopathic Medicine, but those applications were
7 unsuccessful.
8 Q So there were three then, those two plus Ross that you
9 applied to at that time?
10 A I believe so.
11 Q Okay. And again, for mostly personal curiosity, what
12 does osteopathic mean?
13 A It's the other degree that enables one to practice
14 medicine. The two degrees that enable one to practice
15 medicine are the MD degree and the DO degree. Doctors
16 of osteopathy are licensed to practice medicine in all
17 50 states with an unrestricted license.
18 Q Okay. And you -- we're going to come back to this
19 switching from Ross to SMU later, but you went directly
20 from Ross to SMU, right?
21 A By directly, what do you mean by directly?
22 Q Did you have a period of employment or education
23 elsewhere in between the two?
24 A No.
25 Q Okay. Maybe like a winter break or something?

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1 A I had maybe two or three weeks off.
2 Q Okay. And you enrolled in the St. Joseph's program at
3 the same time that you enrolled at SMU?
4 A Yes.
5 Q Why didn't you enroll as a transfer student from Ross?
6 A There were a few reasons. Quite honestly, in reviewing
7 the materials from St. Matthew's, it appeared it would
8 be a better school.
9 I also wanted to keep everything in one transcript
10 for when I ultimately applied to residency programs.
11 And I also wanted to review the coursework again so it
12 would be fresh in my mind for when I ultimately take --
13 took Step 1 of the USMLE.
14 Q Okay. Once you left SMU, you finished your St.
15 Joseph's MHSA?
16 A I did.
17 Q Master's in health sciences --
18 A Health services administration.
19 Q Health services administration. Thank you. Did you
20 need to stay in Maine to do that?
21 A It was not required, but I did.
22 Q Okay. And when did you receive that degree?
23 A I finished all of the coursework in March or April of
24 2007, and the degree was conferred I believe in May of
25 2007. I don't know the exact month. I don't know when

Page 10

1 they have their commencement exercises, but it was in
2 2007.
3 Q Okay. While you were finishing up the St. Joseph's
4 program, did you do anything else, or did you stay in
5 Maine and just -- were you employed?
6 A No, I was not employed.
7 Q Were you in any other -- taking any other courses?
8 A Nothing formal.
9 Q Okay. And then where did you go after you finished
10 your coursework in April of '07?
11 A In April of '07, I didn't really have anything going on
12 over the summer. Following that, in the fall of 2007,
13 I enrolled at Franklin Pierce Law Center in the master
14 of intellectual property program, formal degree being
15 master of intellectual property, commerce and
16 technology.
17 Q Okay. Between April and I assume August or September,
18 you started the master's?
19 A That's right.
20 Q Did you stay in Maine?
21 A Yes, I made a few trips back to California, but I did
22 maintain an apartment in Maine.
23 Q Okay. And where is the Franklin Pierce Law Center?
24 A Concord, New Hampshire.
25 Q So in the fall, did you move to New Hampshire?

Page 11

1 A I did.
2 Q And you've just now begun law school classes at
3 Indiana; correct?
4 A That's correct.
5 Q Let me make sure I have all the years accounted for
6 here. You did the master's directly after you finished
7 the St. Joseph's program? Oh, no, you took the summer,
8 then you started the master's in the fall?
9 A That is correct.
10 Q Did you work as a receptionist during -- while getting
11 your master's?
12 A Yes, that was a work study position.
13 Q Okay. And for law school, have you had to take out
14 more loans to pay for this?
15 A Yes.
16 Q Did you receive a master's of IP and commerce --
17 A Of intellectual property, yes, I did.
18 Q You did. That would have been awarded what year?
19 A That would have been awarded this year, 2008.
20 Q All right. So now I'd like to go back and focus a bit
21 more closely on your decision to leave Ross --
22 A Okay.
23 Q -- and enroll at SMU. When did you start thinking
24 about leaving Ross?
25 A I don't actually recall when I actually started

Page 12

1 thinking. I knew I wanted to eventually leave if other
2 opportunities presented themselves. I didn't apply
3 anywhere until my final semester at Ross which would
4 have been the end of 2004 I believe, but I'd always
5 thought about leaving.
6 Q Why did you want to leave?
7 A Very high attrition rate, very high stress level. It's
8 a third world island, nothing like living in the United
9 States in terms of amenities, frequent power outages.
10 Q Were you dissatisfied with the academic program at
11 Ross?
12 A To an extent.
13 Q To what extent?
14 A To the extent that it was very competitive, very
15 stressful. The extent that Ross accepts a lot more
16 people than they know they can ultimately handle so the
17 attrition rate is high basically by design.
18 Q Were you looking for a program that was easier than
19 Ross?
20 A No. I wouldn't say easier. I was looking at a program
21 that had less of an attrition rate so that wouldn't
22 have been a problem. I certainly wouldn't say I was
23 looking for an easier program.
24 Q Okay. Why -- as a student, how did the high attrition
25 rate affect you?

Page 13

1 A In what way?
2 Q Let me rephrase. Why would it be a concern for you
3 that there was a high attrition rate?
4 A Because a large number of students ultimately fail out.
5 At Ross it wasn't uncommon to see majority of the class
6 within a few points of failing grade.
7 Q So you personally would have been concerned that you
8 might be included in those?
9 A Yes, most students at Ross are always concerned they're
10 going to be in that group.
11 Q Okay. And then why were you interested in SMU?
12 A Several reasons. First of all, I was very much
13 attracted to the combined degree program. As I said
14 earlier, I was always interested in having my own
15 medical practice. And I also always wanted to be
16 involved in some of the business aspects of medicine.
17 So it seemed like that -- the combined degree
18 would be a great advantage. It also seemed like St.
19 Matthew's was actively recruiting people who had a
20 similar interest in that field.
21 Q Did you apply at any other medical schools?
22 A Not at that time.
23 Q Did you apply to any law schools or other programs at
24 that time?
25 A No, I didn't. I didn't decide to apply to law school

Page 14

1 until I left St. Matthew's.

2 Q Do you think -- actually, let me ask you first, have

3 you seen the recommendations that you submitted to SMU?

4 I know sometimes those are sealed?

5 A They were sealed. I believe I saw them in the

6 disclosures.

7 Q Okay. Do you think the recommendations you sent to SMU

8 were strong?

9 A I believe they were.

10 Q Did you know at the time that you were applying that

11 your MCAT scores were higher than average for SMU

12 students?

13 A I didn't know what SMU's average MCAT score was.

14 Q You never saw like a 25th/75th percentile breakdown?

15 A Those were never disclosed to me.

16 Q Okay.

17 A In fact at the time I applied, the MCAT wasn't even

18 required for admission.

19 Q Did you personally feel that your MCAT score was

20 strong?

21 A Relative to what, relative to someone who's never

22 taking the MCAT, of course.

23 Q No, that's not exactly what I was getting at. Were you

24 happy with your MCAT score?

25 A No. I wish it was considerably higher, then I probably

Page 15

1 would have been more successful in my attempts at

2 getting into osteopathic programs in the U.S. at least.

3 Q But you never applied to a U.S. MD program?

4 A No.

5 Q Okay. And do you think that your ENT training and your

6 orderly experience was relevant to whether you could

7 succeed in medical school?

8 A Well, those two experiences had essentially no bearing

9 on the basic science portion of medical school. Those

10 are clinical skills, not basic science skills.

11 Q Did you think that they were -- it was relevant

12 experience for a medical student?

13 A It was exposure to the health care field, of course it

14 was relevant.

15 Q So do you think you deserved to be admitted to SMU?

16 A By what standard?

17 Q When you applied, did you think your credentials were

18 too weak --

19 A I was concerned they may be.

20 Q -- to get into St. Matthew's?

21 Do you think you should not have been admitted to

22 St. Matthew's?

23 MS. GOODWIN: Object to form.

24 Q (By Ms. Cornwall) You can still --

25 MS. GOODWIN: I'll tell you if you can't,

Page 16

1 otherwise go ahead.

2 THE DEPONENT: Can you please repeat the

3 question?

4 MS. CORNWALL: I don't remember exactly how I

5 phrased it. Can you read it back?

6 (Question appearing on Page 15, Lines 21 through 22,

7 was read back.)

8 THE DEPONENT: That's not an easy question to

9 answer. We're talking about a school that knowingly

10 accepted people with no MCAT scores, with no bachelor's

11 degrees and who had been flunked -- who had flunked out

12 of other medical schools for a variety of reasons.

13 It's very hard to say who was deserving of being

14 admitted to that sort of program.

15 Q (By Ms. Cornwall) After your experience with peers at

16 SMU, did you think you were qualified for admission

17 relative to those in your class?

18 MS. GOODWIN: Objection. You can answer.

19 THE DEPONENT: Well, relative to other people

20 in the class, it was hard to -- hard to determine.

21 There were a lot of people that lied, a lot of people

22 in the class claimed to have credentials that no one

23 with such credentials would have if they were at St.

24 Matthew's.

25 There were people who occasionally would claim

Page 17

1 they were actually admitted to several U.S. medical

2 schools. There were -- it's a difficult question to

3 answer -- there were compared to people without a

4 bachelor's degree, and with minimal science training,

5 yes, I do think I was qualified to go into a medical

6 school. Based on my prior academic performance, I

7 think that does raise some concerns.

8 Q (By Ms. Cornwall) Okay. You read the entire student

9 catalog and the information on SMU's website before

10 applying to SMU?

11 A Yes.

12 Q Did you also read any ValueMD postings at that time,

13 and it's ValueMD?

14 A Yes, I did read both.

15 Q How closely did you follow the ValueMD postings, how

16 often would you check?

17 A I don't recall, but when I started getting more serious

18 about applying to SMU, I'd probably say once or twice a

19 week.

20 Q Okay. Now when I say those materials, in this next

21 sentence, I'm talking about the student catalog, the

22 information on SMU's website, and the ValueMD postings?

23 A Okay.

24 Q Okay. Did any of those materials state that California

25 had been approved -- had approved SMU?

Page 18

1 A I don't recall anything saying that.

2 Q Did any of those materials state that California would

3 approve SMU and that the approval would apply to

4 current students?

5 A Not expressly.

6 Q Did any of these materials contain representations

7 regarding the likelihood of California approval in the

8 near future?

9 A Yes.

10 Q Can you describe those to me?

11 A Some of the postings based on what SMU officials

12 posted; namely, J.P. Yates, or at least someone posting

13 with his name, indicated there was a strong likelihood.

14 There was a lot of confidence that SMU would be

15 approved.

16 Also, based on the catalog and all the other --

17 and their website, photos of the campus, everything

18 else that was presented to me, I inferred that the

19 school would likely be -- would likely be approved.

20 Q Okay. So but the only overt representation would have

21 been from the J.P. Yates posting?

22 A I don't know if he was the only one who posted. I

23 don't recall. But he was someone who posted very

24 regularly at that time. He was probably -- probably

25 the most frequent poster from SMU. But in his

Page 19

1 postings, it -- and when the question would come up, he

2 was always very confident that that was almost an

3 inevitability.

4 Q So the only overt representation would have been the

5 ValueMD postings? You said it might be J.P. Yates, it

6 might be someone else?

7 A If you're saying the only overt representations in a

8 group comprising the catalog, the website -- the SMU

9 website, and ValueMD, then yes, that would be -- there

10 were no -- I was not aware of any overt postings on --

11 in the catalog or on the school website, except for the

12 postings that were posted on SMU's own internet forum

13 as part of its website. And there J.P. Yates engaged

14 in similar behavior and posted similar subject matter

15 as he did on ValueMD.

16 Q Okay. So there was an internal messaging board that's

17 not ValueMD?

18 A That's correct.

19 Q Okay. Give me just one second here. When were you

20 admitted to SMU, do you recall?

21 A Yes, that would have been -- I believe I was formally

22 told in November of 2004.

23 Q Okay. And do you recall when you withdrew from Ross?

24 A Sometime in December of 2004.

25 Q Okay. So when you were applying to SMU, you knew that

Page 20

1 California had not approved SMU; correct?

2 A Correct.

3 Q Did you also know that Texas had not approved SMU?

4 A That -- I believe I was aware. I'm not sure as to when

5 I found out about Texas.

6 Q Okay. Did you know that Indiana had disapproved SMU?

7 A Again, I know I became aware of Indiana at some point

8 either before my admission or soon thereafter, but I

9 don't recall the exact time frame.

10 Q Do you remember if you became aware of -- that neither

11 Texas nor Indiana had approved SMU before or after you

12 began classes?

13 A That I honestly do not recall.

14 Q Did you know that any future approval by California

15 would not apply to you?

16 A No, I was not aware of that.

17 Q Did you ever become aware of that? I should say, were

18 you ever told that or otherwise became aware of it?

19 A That's not really something anyone can say, the

20 California board has -- medical board has approved

21 schools and given retroactive approval.

22 Q Did anyone ever inform you of the likelihood that a

23 California approval would not be retroactive?

24 A I don't recall ever being explicitly told -- told that.

25 Q Okay. Did anyone at SMU ever represent that future

Page 21

1 approval would apply to you, sort of the reverse of

2 what we were just talking about?

3 A I would say -- I would actually say yes, in the

4 representations that SMU made in regards to how

5 erroneous the California report decision was, from that

6 I inferred that since that visit occurred prior to my

7 enrollment, and the California board acted erroneously,

8 yeah, I inferred that I would be -- that it would be

9 retroactive.

10 The subsequent approval following SMU's efforts to

11 prove through legal or other means that this was an

12 erroneous report that was issued in error and was so

13 damaging to the school that they felt the need to hire

14 two law firms to represent them, that yes, I thought

15 subsequent -- subsequent to their successful legal or

16 other attempt that yes, I would have been -- it would

17 have been retroactive and applied to me.

18 Q So the representation would be that the California

19 report had errors and that the school was actively

20 trying to show that the California report had errors,

21 and from that representation, you inferred that future

22 approval would apply to you?

23 A Yes.

24 Q Was there ever a direct representation that future

25 approval would apply to you without the inferential

Page 22

1 step?

2 A Yes. I would -- I would say that there was. In the

3 email that was sent out as -- the initial email that

4 was sent out by I believe it was Dr. Thornton or

5 Dr. Harris, I don't have it in front of me, but the

6 initial email and initial communication informing the

7 student body of the California decision, he said that

8 this would -- this would be challenged in court or

9 challenged somehow, through some means, legal or

10 otherwise. That this would be challenged, and because

11 it was so erroneous, SMU would gain approval. I -- I

12 took nothing away from that other than that this --

13 that this approval would happen and was inevitable.

14 Q So I'm about to show you the email that I think you're

15 talking about?

16 A Okay.

17 Q So but what I hear you saying is, correct me if I'm

18 wrong, that what you took away from the email is that

19 approval would apply to you? What I'm going to ask you

20 to do when you look at this is to tell me if it

21 directly anywhere says that approval will apply to

22 existing students?

23 A Okay.

24 MS. CORNWALL: Could we mark this as Exhibit

25 1?

Page 23

1 (Repetto Deposition Exhibit Number 1 was marked for

2 identification.)

3 THE DEPONENT: No, I don't see anything

4 expressly saying that approval would be retroactive.

5 Q (By Ms. Cornwall) Okay. When you applied to SMU, did

6 you speak to anyone at SMU over the phone?

7 A Yes.

8 Q Who did you speak to?

9 A I don't recall everyone I spoke to, but I know I spoke

10 to J.P. Yates. I spoke to Darrell Frazier or Frazier,

11 I'm not exactly sure of the correct spelling or

12 pronunciation of his name. Beyond that, I don't recall

13 anyone else I spoke to. I made some phone calls, but I

14 don't know if there was anyone else.

15 Q So you had phone conversations with a number of

16 individuals at SMU prior to your admission?

17 A Yes.

18 Q And during these phone conversations, I mean, were

19 these -- do you think someone would have -- trying to

20 get at whether these were one word conversations, or if

21 somebody could have gotten -- by speaking to you gotten

22 a feel for not necessarily your personality, but were

23 these more than one sentence long conversations?

24 A They were very brief conversations. They mainly

25 pertained to whether or not my application was

Page 24

1 received, what would be the deadline for applying for

2 the fall semester, and whether all materials were

3 received. Essentially, that was it. There was nothing

4 else asked, nothing else ever discussed.

5 Q Did you ever discuss your background or any of the

6 substance of your application?

7 A No. Never.

8 Q And what was your backup plan if you hadn't gotten into

9 SMU? Would you have stayed at Ross?

10 A Most likely.

11 Q Did you have a plan if you hadn't gotten into SMU and

12 if you had been part of that attrition rate at Ross?

13 A There were things I was considering, but nothing ever

14 materialized, nothing actually well formed.

15 Q What kinds of things were you considering?

16 A Honestly, at the time I wasn't sure. I'd always

17 thought about the idea of possibly law school, but not

18 very seriously, never took the LSAT while I was at Ross

19 or anything of that sort.

20 Q Okay. So I'm going to now -- I want to do another one

21 of these time lines?

22 A Okay.

23 Q This time for your time at SMU?

24 A Okay.

25 Q We're going to come back to each of these things in

Page 25

1 detail?

2 A Okay.

3 Q Okay. So these first couple of questions are

4 clarifying some things for me. While you were at SMU,

5 students could take classes on one of two campuses,

6 Maine and Grand Cayman; correct?

7 A Only for the fourth and fifth semester was Maine an

8 option.

9 Q Okay. Great. You took non fourth and fifth semester

10 classes in Maine simply because of hurricane Ivan; is

11 that right?

12 A Yes.

13 Q But they were Cayman courses taught in Maine?

14 A Yes.

15 Q Okay. You then went to the Cayman campus for the first

16 time in the fall of '05?

17 A No. I believe it was the summer of '05. Summer being

18 the semester that starts in May.

19 Q Right. So you were only taking Cayman courses in Maine

20 for spring, '05, just one term?

21 A My first semester courses, yes.

22 Q Okay. And at the end of fall, 2005, you had passed all

23 the classes required to proceed to your fourth term?

24 A I'm sorry, at the end of --

25 Q Your fall, 2005, term, so in December, '05, you had

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1 passed all of the first, second and third semester
2 courses?
3 A That is correct.
4 Q Would you say that you had received a substandard
5 education up until that point?
6 A Honestly, yes.
7 Q Tell me why, please?
8 A Number of reasons. That's a very open ended question.
9 Can you be more specific?
10 Q What were you unhappy with in your first, second and
11 third semester instruction?
12 A A number of things, facilities, for one. Faculty, for
13 another. Curriculum.
14 Q Did you think the curriculum was too easy, too hard?
15 A I felt in many respects it was lacking.
16 Q How so?
17 A For instance, I felt like there were things that were
18 covered in most textbooks that were not covered in
19 appreciable detail at St. Matthew's.
20 Q So you wanted more depth of instruction?
21 A Not sure I would even say depth. I would say more
22 relevance.
23 Q Did you think the materials you were being taught were
24 irrelevant to --
25 A I wouldn't say irrelevant, but they were relevant --

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1 there was relevant material that would appear on tests
2 like Step 1 of the United States Medical Licensing
3 Examination that were omitted. There were things
4 that -- subject matter that was taught or not taught in
5 earlier classes or more basic classes that in
6 subsequent classes, there was not sufficient background
7 to adequately understand more advanced material.
8 Q So in fourth semester classes, you felt that --
9 A No, I thought we were speaking of SMU courses in
10 general up until fourth semester.
11 Q That's what I was --
12 A Okay.
13 Q -- speaking of, but what I'm trying to get at, not how
14 you feel now about the first three semesters, but how
15 you felt then?
16 A How I felt then, I still had -- I had those concerns
17 then.
18 Q When do most people take the USMLE?
19 A By most, are you referring --
20 Q Step 1, I'm sorry?
21 A Right. By most, are you referring to most medical
22 students in general, or most St. Matthew's students?
23 Q When would you have expected to take it, after which
24 semester of instruction?
25 A When I personally have expected to take it?

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1 Q No. When would most SMU students take the USMLE?
2 A Most SMU students would have taken it --
3 Q Step 1?
4 A -- after their fifth semester.
5 Q So you -- part of your complaint was that you didn't
6 feel prepared for the USMLE after your third semester?
7 A I'm sorry, my complaint?
8 Q I'm sorry, we were just -- I didn't -- complaint, lower
9 case, not upper case C. When we were just talking, you
10 said part of the problem with the curriculum was that
11 you thought there was material in the USMLE that the
12 curriculum hadn't covered?
13 A That's correct.
14 Q And I was just confirming that there were two more
15 semesters of instruction expected before you were
16 expected to take the USMLE, Step 1?
17 A There was not two more semesters of instruction in each
18 of the subject areas, though.
19 Q Okay. Was it true that the fourth semester of classes
20 were building on the first three semesters?
21 A It was.
22 Q So you returned to Maine for fourth semester classes in
23 spring, 2006?
24 A That is correct.
25 Q We'll come back to some of these in detail, but let me

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1 try to get through this time line. So you withdrew
2 from both pharmacology and Path II during the 2006
3 term, right?
4 A During the spring, 2006, term, yes.
5 Q Yes. Thank you. Did you add any other courses when
6 you withdrew or did you --
7 A There was not an option to add any other courses.
8 Q So after you withdrew in spring, 2006, from Pharm and
9 Path II, you were taking Patient/Doctor 4 and genetics?
10 A I believe -- yes, I believe those were the only two. I
11 could be wrong, there might have been something else,
12 but I think those were the only two other courses.
13 Q And then summer, 2006, you tried again to pass Pharm
14 and Path II; correct?
15 A Correct.
16 Q Were you taking any other courses, summer of 2006?
17 A I was taking clinical therapeutics.
18 Q Okay. And you failed both Pharm and Path II that term?
19 A Yes.
20 Q Correct? In September, 2006, you began Pharm and Path
21 II again?
22 A That is correct.
23 Q Were you taking any other classes?
24 A Not at that time. And in all of these questions, when
25 you say other classes, I'm only referring to SMU

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1 classes. I'm not speaking of St. Joseph's classes.
 2 Q So during this time, you were taking St. Joseph's
 3 classes, were you progressing along the normal path in
 4 the St. Joseph's classes?
 5 A Again, it's very hard to define what a normal path is
 6 in the St. Joseph's program.
 7 Q So most fourth semester students at SMU would take
 8 genetics, pharmacology, Pathology II, and
 9 Patient/Doctor 4 while taking certain classes at St.
 10 Joseph's; correct?
 11 A Correct.
 12 Q Did you fail St. Joseph's courses --
 13 A No, none.
 14 Q -- in the spring? So in the summer of 2006, did you
 15 progress to what most fifth semester students would be
 16 taking at St. Joseph's?
 17 A Again, that question is very difficult to answer
 18 because the St. Joseph's program had students from all
 19 semesters in different classes in different semesters.
 20 So people joined the St. Joseph's program at varying
 21 times. They dropped courses at varying times. So it
 22 wasn't -- it wasn't a curriculum that was as well
 23 defined as the St. Matthew's curriculum.
 24 Q Let me try phrasing it this way. Did your St.
 25 Joseph's course load stay about the same over the

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1 but I did receive a letter like this.
 2 Q (By Ms. Cornwall) And just to confirm, it says that
 3 you have used up your basic science financial aid
 4 eligibility; is that correct? Sorry, it's below the --
 5 A Yeah, I'm just reading through it. Yes, that is
 6 correct.
 7 Q And basic science program would have ended with fourth
 8 semester; correct?
 9 A My understanding is for the purposes of financial aid,
 10 it ended in the fifth semester.
 11 Q So what semester would clinical science program --
 12 A After fifth semester, after students enter into
 13 clinical rotations after fifth semester.
 14 Q Okay. We'll come back to that. So you and -- we
 15 established earlier that you and Dr. Pringle met on
 16 November 7th, does that sound right to you?
 17 A I don't recall the date.
 18 Q Okay. Did you meet with Dr. Pringle the day before a
 19 Pathology II exam in November of 2006?
 20 A I did.
 21 Q And then you met again after that exam and after
 22 another exam, does that sound right to you? I can
 23 just -- did you meet again in November after --
 24 A We met after the exam, it was in late -- I don't know
 25 if it was in late November, December. We did meet

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1 course of the spring, summer, and fall, 2006, terms, or
 2 did you decrease the number of St. Joseph's courses you
 3 were taking?
 4 A No, they -- I never decreased any courses at St.
 5 Joseph's.
 6 Q Okay. Who taught pharmacology in fall, 2006?
 7 Actually, let me withdraw that question. I think
 8 we established earlier, and correct me if I'm wrong,
 9 that in fall of 2006, Dr. Pringle directed the
 10 pharmacology course and certain lectures were taught by
 11 other professors; is that correct?
 12 A I don't know if their actual title was professor, but
 13 it was taught by other instructors, yes.
 14 Q Okay. And Dr. Wilhoite taught Pathology II in fall of
 15 2006?
 16 A He was one of the instructors of Pathology II.
 17 Q Was that course set up in the same way as pharmacology
 18 where you had a large number of other instructors?
 19 A In Pathology II, there were two instructors, Dr. Pusch
 20 and Dr. Wilhoite.
 21 Q Thank you. On September 29, 2006, you received this
 22 letter that we're marking Exhibit 2.
 23 (Repetto Deposition Exhibit Number 2 was marked for
 24 identification.)
 25 THE DEPONENT: I don't recall the exact date,

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1 again, yes.
 2 Q Does -- okay. In late November, you started to send
 3 emails to SMU officials inquiring about readmission
 4 procedures; right?
 5 A Correct.
 6 Q And some faculty -- again, I'm just going through the
 7 time line?
 8 A Sure.
 9 Q We'll go back to all this. Some faculty members
 10 responded to these emails, you had a few email
 11 discussions; correct?
 12 A They weren't faculty, they were administrators.
 13 Q Was Dr. Green a faculty member or administrator or
 14 both?
 15 A I believe he was only an administrator at the time.
 16 Q And Dr. Nasser?
 17 A Dr. Nasser was both a faculty member and an
 18 administrator.
 19 Q And Dr. McCutcheon?
 20 A He was purely an administrator.
 21 Q Okay. On December 13, 2006, you got a letter
 22 explaining that you had been dismissed from SMU;
 23 correct?
 24 A I'm sorry, what was the date?
 25 Q December 13, 2006?

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1 A Again, I don't recall the exact date, but I did receive
 2 a letter in December saying that.
 3 Q Let's mark this letter as Exhibit 3.
 4 (Repetto Deposition Exhibit Number 3 was marked for
 5 identification.)
 6 Q (By Ms. Cornwall) After receiving this letter, you
 7 again emailed several SMU professors; right?
 8 A Correct. Or administrators. Again, I wouldn't say
 9 professors.
 10 Q Sorry about that. And the school shut down for winter
 11 break after that?
 12 A I wasn't aware of the school shutting down for winter
 13 break. I didn't know how their Florida office works.
 14 Q So the students would have been on winter break after
 15 that?
 16 A Yes.
 17 Q Okay. And on January 5th, 2007, you received an email
 18 from Gary McCutcheon; correct?
 19 A I'm sorry, what date?
 20 Q January 5th?
 21 A It was sometime around January, and yes, I did receive
 22 an email from Dr. McCutcheon.
 23 MS. CORNWALL: Let's mark this Exhibit 4.
 24 (Repetto Deposition Exhibit Number 4 was marked for
 25 identification.)

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1 Q (By Ms. Cornwall) After this email, do you remember
 2 making another attempt to contact instructors or
 3 faculty members or administrators?
 4 A Yes, after I received this email, I did contact some
 5 other SMU personnel.
 6 Q And then at some point thereafter, you sought legal
 7 assistance?
 8 A That is correct.
 9 Q And there was an exchange of letters between lawyers,
 10 and then the filing of the lawsuit; does that sound
 11 right?
 12 A Yes.
 13 Q Just rounding out my time line. Okay. So let's turn
 14 to representations as to approval efforts in more
 15 detail.
 16 A Okay. Before we continue, can I have a break?
 17 Q Yes, absolutely.
 18 (Recess at 11:44 a.m., to 11:49 a.m., after which the
 19 following proceedings transpired.)
 20 (Repetto Deposition Exhibit Number 5 was marked for
 21 identification.)
 22 Q (By Ms. Cornwall) Do you recognize these emails, the
 23 latest of which was sent on May 30th, 2006?
 24 A Let me read it, please. Yes, I recognize these emails.
 25 Q I also put back in front of you Exhibit 1?

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1 A Okay.
 2 Q Did you have any communications regarding California
 3 approval with Dr. Thornton other than these emails that
 4 are in front of you?
 5 A I communicated with Dr. Thornton exclusively by email.
 6 There may have been other emails, but I believe this is
 7 if not all of them, at least most of them.
 8 Q Okay. What does he say in these emails that is false
 9 in your opinion?
 10 MS. GOODWIN: Objection. You can answer.
 11 MS. CORNWALL: I'm going to try to rephrase
 12 the question.
 13 MS. GOODWIN: Go for it.
 14 MR. LAPP: You don't need to.
 15 Q (By Ms. Cornwall) What misrepresentations or
 16 misstatements do you think are in those emails?
 17 A First of all, quote, next move is to invite Harvard
 18 administrative personnel down to SMU to review us and
 19 to report to California, end quote.
 20 I'm not aware of that ever happening. There was
 21 no communication to any student that there was a team
 22 assembled from Harvard ever sent to Cayman. That was
 23 March 8th of 2006. We're now in 2008. I don't believe
 24 that ever transpired.
 25 Q Can we stop with that one and then do them one by one?

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1 A Sure.
 2 Q Okay. Do you know that a team from Harvard was not
 3 invited?
 4 A I don't know that conclusively.
 5 Q Okay.
 6 A I also believe it's false when on March 9, Dr. Thornton
 7 says quote, we continue to work on this on a daily
 8 basis and have two legal teams -- two legal California
 9 teams advising us, end quote.
 10 I really didn't see anything that SMU ever did
 11 that would objectively show they were working on this
 12 on a quote, daily basis. Again, it's now been almost
 13 four years since the disapproval, and there hasn't been
 14 any change.
 15 Q Okay. So you didn't see the results you would expect
 16 from daily work, do you know that SMU at the time that
 17 was written was not working on California approval on a
 18 daily basis?
 19 A I don't know.
 20 Q Okay.
 21 A I also disagree with his factual claim, again, this is
 22 in reference to the email sent on March 9, quote, the
 23 only other states which have given us difficulty
 24 because of California has been Texas and Indiana, end
 25 quote.

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1 Other states subsequently followed, and there were
 2 other states, again, I don't know them all offhand, but
 3 they actually have provisions in their statutes that
 4 forbid applicants for medical licenses who have
 5 graduated from schools who have been disapproved by any
 6 state from obtaining a license.
 7 Q Did those schools follow before the date of this email
 8 such --
 9 A I'm sorry, did those schools?
 10 Q States. My bad.
 11 A I knew what you meant.
 12 Q Did those states follow after the date of this email,
 13 or could that statement have been --
 14 A As far as I know, there were states prior to this
 15 decision who had those -- those sorts of statutes.
 16 Q So you believe that more than Texas and Indiana --
 17 A Yes.
 18 Q -- and California?
 19 A Yes.
 20 MS. GOODWIN: Let her finish.
 21 THE DEPONENT: I'm sorry.
 22 Q (By Ms. Cornwall) Had disapproved SMU as of the date
 23 of that email?
 24 A Yes.
 25 Q Okay. Go on.

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1 A I also am not aware of the factual accuracy of this
 2 claim that any -- that Texas would allow any physician
 3 licensed in another state to enter into Texas
 4 regardless of the university attended. Again, SMU
 5 still appears on the list that Texas maintains of
 6 fraudulent and substandard medical schools.
 7 Q So you think the statement as to Texas is perhaps
 8 false?
 9 A Correct. I would also question what basis he has for
 10 saying that I have never seen California to be either
 11 reasonable or rational.
 12 Q Okay. Go on.
 13 A I disagree with his factual assertion that quote -- and
 14 again, this is in reference to May -- an email May 30,
 15 2006, quote, currently, the -- I'm sorry. Quote,
 16 California has not -- again, I'm sorry.
 17 All right. This one is accurate. Quote, we do of
 18 course do not believe the site visit was unbiased and
 19 deficiencies noted in their report were either false or
 20 inaccurate.
 21 I believe there were many false and inaccurate
 22 statements in SMU's rebuttal to the California report,
 23 and I believe many things that were in the California
 24 report were entirely accurate.
 25 Q Okay. Go on.

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1 A In terms of factual accuracy of these emails, I believe
 2 that's it.
 3 Q Okay. Prior to receiving these emails, had you thought
 4 about leaving SMU?
 5 A Yes.
 6 Q When?
 7 A When I got to the Cayman Islands in second semester, I
 8 had serious questions when I saw how the facilities in
 9 the Caymans actually were. I started to question some
 10 of the faculty at SMU based on their credentials, their
 11 teaching habits in the second semester, the use of --
 12 rampant use of review materials as opposed to actual
 13 textbooks in instruction was a concern.
 14 Q These emails that you have in front of you would have
 15 been -- were sent prior to your -- to the summer of
 16 2006 term in Cayman; correct? I believe we have
 17 February, '05 -- oh, I'm sorry, for the February, '05,
 18 email --
 19 A No, these were sent --
 20 Q Let me separate the two.
 21 A Okay.
 22 Q Exhibit 1 would have been prior to when you had
 23 considered leaving SMU?
 24 A That's not entirely true. When I -- when I received
 25 this email, that was the first time I found out that

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1 SMU had been disapproved by the California Medical
 2 Board. That is when I initially considered leaving
 3 SMU. But the contents of this email and the rebuttal
 4 provided by SMU mitigated my concerns at the time.
 5 Q Okay. Had you expressed to anyone at SMU that you --
 6 did you at any time express to anyone at SMU your
 7 thoughts about leaving?
 8 A I don't recall ever doing so.
 9 Q Okay. Do you see where you wrote in the -- sorry.
 10 Okay. The March 5th, 2006, email you wrote, I do
 11 believe SMU provides a solid medical education, did you
 12 believe that when you wrote it?
 13 A No, I did not.
 14 Q Why did you write it if you didn't believe it?
 15 A Well, there were two reasons. First of all,
 16 recognizing that SMU is a for profit institution,
 17 recognizing at the time this email was sent, more than
 18 a year had elapsed between the date of the disapproval
 19 and this email, I didn't want to say to Dr. Thornton
 20 and ask information in such a way that he would be
 21 concerned that if he didn't answer it in a truthful
 22 manner, I would suddenly leave.
 23 So I basically wanted to set the question up
 24 such -- such that it was in a very non threatening, non
 25 confrontational tone, so I would basically elicit the

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1 most truthful response from him.

2 I was concerned if I admitted to having serious
3 concerns based on the California report, I wouldn't get
4 a truthful answer, and I would simply hear something
5 that SMU is still working on it, and the California
6 report was inaccurate.

7 I wanted a more truthful response so I worded -- I
8 basically worded it such that I -- it appears I
9 would -- was not interested in leaving. That was not
10 the case at the time. But my primary reason was to
11 elicit the most truthful response possible.

12 The secondary reason was I didn't basically -- I
13 basically didn't want to make enemies with the
14 administration.

15 Q Okay. Give me another minute here. In the May 27,
16 2006, email you wrote I have complete confidence in the
17 education I am receiving at SMU. Was that true when
18 you wrote it?

19 A No, not at all. And it was said for the same reasons I
20 noted above. I was attempting to elicit the most --
21 the most honest answer possible from the faculty
22 without them being -- or the administration without
23 them having any concerns that if they didn't answer in
24 a particular way that I would leave the school.

25 Q And I know I'm messing up the chronology here, but in

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1 Q If you wouldn't mind reading the last two items --

2 sorry, the second and third paragraphs of that, the
3 second paragraph starting, however?

4 A Okay.

5 Q Then the first sentence of the third paragraph,
6 starting by this change?

7 A Okay. However, in the summer of 2004, the board of
8 California changed their rules. The rule change
9 allowed the language quote, a graduate is eligible to
10 participate in residency as long as the school from
11 which they graduated was approved by California by the
12 time they graduated, end quote, to, quote, a graduate
13 must have taken every course credit in a California
14 approved school, end quote.

15 By this change, they wiped out the possibility of
16 any graduate who has completed even one credit in a non
17 approved school of practicing in California.

18 Q When you read this email in May of '06, did you
19 understand Dr. Thornton to be saying that California
20 approval would not apply to someone who took courses
21 prior to the approval?

22 A No, I did not.

23 Q What did you understand the sentence that reads, by
24 this change, they wiped out the possibility of any
25 graduate who has completed even one credit in a non

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1 the March 8th email, you said I agree that SMU is not
2 fairly evaluated?

3 A Again, that was -- I said that for the exact same
4 reasons.

5 Q Okay. Turning back to Exhibit 1, the March, 2005,
6 email, you told us that the California disapproval
7 raised concerns for you, but that this email had sort
8 of assuaged those concerns; correct?

9 A Correct.

10 Q If the email had just said that SMU was using its best
11 efforts to gain approval, would that have similarly
12 assuaged your concerns?

13 A If I was provided with the rebuttal in addition to the
14 email, yes. Quite honestly, the text of this email
15 isn't everything. When I refer to this email, I'm also
16 referring to everything that was attached to it or
17 linked to it being the rebuttal.

18 Also, I basically had to rely on SMU's rebuttal
19 because at the time this email was sent, I was on the
20 Maine campus, I'd never been to the Cayman campus. The
21 Cayman campus wasn't even functional due to hurricane
22 Ivan.

23 Q Okay. Let's go back to Exhibit 5. In the top email,
24 the May 30th email?

25 A Okay.

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1 approved school of ever practicing in California?

2 A I read that to mean exactly what it said, but again,
3 the California Medical Board had -- has granted
4 retroactive approval to schools after 2000 -- either in
5 2004 or in early 2005.

6 St. Matthew's officials cited the instance of Saba
7 University being granted retroactive approval in
8 their -- in their efforts to gain approval in
9 California. They've mentioned it on their own web
10 board. They mention it on cites like ValueMD. It has
11 been mentioned before by SMU administrators at the time
12 SMU administration was aware that retroactive approval
13 could have been possible.

14 Also, this email still says -- still -- the first
15 two sentences -- I'm sorry, the second sentence of this
16 email says we have two attorney groups in California
17 advising us on this matter. Currently the advice
18 suggests that we approach them regarding review at the
19 end of the next two years. California has not
20 responded to any requests for information about the
21 next step.

22 Basically, this doesn't tell me at all that they
23 were abandoning their efforts to continue to seek
24 approval through legal means and challenging the
25 validity of the initial report.

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1 Q Let's turn to Dr. Green. You said that Dr. Green told
 2 a class a week after the release of the California
 3 report that action was being taken; correct?
 4 A That is correct.
 5 Q And were you in that class?
 6 A I was.
 7 Q You also said that he assured students the decision was
 8 based upon factual inaccuracies?
 9 A That is correct.
 10 Q Were you one of those students who he assured?
 11 A I was in the class.
 12 Q Okay. You also said that at the end of the spring,
 13 2005, term, he assured you that the administration was
 14 working through legal means to secure California
 15 approval and that the disapproval was unwarranted; is
 16 that right?
 17 A I'm sorry, can you repeat that?
 18 Q That at the end of the spring, 2005, term, he assured
 19 you that the administration was working through legal
 20 means to secure California approval?
 21 A Yes, that is correct.
 22 Q And that the disapproval was unwarranted?
 23 A That is correct.
 24 Q I'm going to sort of try to summarize those, and then I
 25 want you to tell me if Dr. Green said anything other

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1 than what I'm about to say.
 2 A Okay.
 3 Q That action was being taken by the administration
 4 through legal means, that the decision was unwarranted,
 5 and that the decision was based on factual
 6 inaccuracies, did he say anything else?
 7 A He did say he thought it was -- it was unfair. He did
 8 speak as to the fairness of the issue, but that was the
 9 substance of the conversation, yes.
 10 Q Okay. What about these statements do you think is
 11 false?
 12 A Well, the fact that the California report was erroneous
 13 I think is false. I think there were a lot of things
 14 in the California report that actually proved to be
 15 accurate. The California -- the SMU's rebuttal to the
 16 California report also has several things that are
 17 factually inaccurate.
 18 And again, I haven't seen anything that would
 19 indicate that SMU actually has taken any legal means or
 20 any means through any administrative body to seek
 21 approval in California.
 22 Q I'm going to ask for your opinion now --
 23 A Okay.
 24 Q -- you can say no, or I don't have an opinion on that.
 25 But do you think when Dr. Green said this, do you think

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1 he believed it to be true?
 2 MS. GOODWIN: Objection.
 3 THE DEPONENT: I don't know. I don't believe
 4 it would have been possible for him to believe anything
 5 else given his position in the school.
 6 Q (By Ms. Cornwall) Okay.
 7 A I believe he had to have known it was false.
 8 Q Okay. Had you expressed any unhappiness or thoughts of
 9 leaving the school at that time to Dr. Green?
 10 A At the time, no.
 11 Q Did he make any other oral or written -- we covered
 12 oral. Did he make any other written representations
 13 regarding approval?
 14 A No, that was a verbal conversation in his office. So
 15 there were no written representations made by Dr. Green
 16 at that time.
 17 Q Okay. And the oral representations we've talked about
 18 are the total of all the oral representations he made?
 19 A Right.
 20 Q Okay. Let's look at what J.P. Yates posted on ValueMD?
 21 A Okay.
 22 Q You said earlier that you read the ValueMD postings
 23 before you were admitted; right?
 24 A I wouldn't say I read all of them, but I read -- I read
 25 many of them, yes.

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1 Q Okay. And did you continue to read ValueMD postings
 2 once you were attending SMU?
 3 A Yes.
 4 Q How frequently would you say?
 5 A Depending on the time and what was going on, I would
 6 say anywhere from maybe once or twice a week to at some
 7 points maybe once a day.
 8 Q Okay. What did J.P. Yates or someone posting under his
 9 name on ValueMD say that was false?
 10 A What he said was false was that there's -- well, again,
 11 I can't assure that the accuracy that -- with accuracy
 12 that SMU has not sought legal action against the
 13 California Medical Board. But I have also seen no
 14 evidence provided that they have. He has assured -- on
 15 ValueMD posted many assurances about that.
 16 He posted many assurances that everything in the
 17 California report -- not everything, but many aspects
 18 of the California report were in error, which is false.
 19 After experiencing St. Matthew's in both campuses, I
 20 can say that the California report was accurate in many
 21 regards.
 22 Q Okay. So to recap, J.P. Yates made statements on
 23 ValueMD stating that the administration was taking
 24 action and that the California report contained factual
 25 inaccuracies?

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1 A Correct.

2 MS. GOODWIN: Objection. I don't believe it

3 properly summarized the testimony.

4 Q (By Ms. Cornwall) How would you briefly summarize the

5 representations that J.P. Yates made on ValueMD that

6 you think are false?

7 A J.P. Yates made many representations that SMU is

8 aggressively challenging the decision of the California

9 Medical Board. He made representations that the

10 contents of the report issued by the California Medical

11 Board were factually incorrect. He asserted the

12 accuracy of the St. Matthew's rebuttal to the

13 California report.

14 Q Okay.

15 A And again, what I'm saying in regards to what J.P.

16 Yates said pertains only to the issue as to approval in

17 California.

18 Q Okay.

19 MS. CORNWALL: Can we take a quick break?

20 THE DEPONENT: That's a good idea.

21 (Recess at 12:14 p.m., to 12:22 p.m., after which the

22 following proceedings transpired.)

23 Q (By Ms. Cornwall) If you wouldn't mind reading just

24 the highlighted portions for now?

25 A Okay. On February 12, 2005, J.P. Yates posted, this is

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1 why I counsel students to check the rules and laws

2 themselves, rather than relying on others to provide

3 the information.

4 Q And the next one, just the same way.

5 A But always check with the boards directly to be on the

6 safe side.

7 And last quote is I still recommend calling for

8 yourself.

9 Q Okay. So did you see any of those postings

10 contemporaneously when they were posted?

11 A I don't know. I have to go back and look at the thread

12 to see if this was a thread I recall reading. I'm not

13 sure if I read this particular thread, but what J.P.

14 Yates said on the 12th of April -- April 12, 2005,

15 where he says that is why I counsel students to check

16 the rules and laws themselves rather than relying on

17 others to provide information, he cites the actual

18 rules in Texas for medical licensure.

19 In a post, I don't know if it was previous to or

20 subsequent to this posting, he cited 136.1(a),

21 Subsection (B), the provision that in Texas law that

22 says -- has not been disapproved by another state or

23 physician licensing agency. And he put particular

24 emphasis on the following words, unless the applicant

25 can provide evidence that the disapproved school was

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1 unfounded.

2 In other posts he did say that SMU has every

3 intention of doing that. And the message that he was

4 posting was in essence that he did believe that

5 students could be licensed in Texas subsequently.

6 Q Okay. With these exhibits, these batches of

7 postings --

8 A Okay.

9 Q -- what I'm trying to get at is whether you read the

10 highlighted information?

11 A Right. I don't -- I recall reading a post from J.P.

12 Yates with this rule cited in its entirety like it is

13 here, but I don't recall seeing that.

14 Q I see what you're saying now.

15 A Right. I do recall seeing a very similar post, but I

16 recall he had a lot more language on -- in the posting,

17 in addition to the actual rule, which stated that he --

18 that the -- that because Texas law has a provision to

19 allow licensure if it can be proven that the

20 disapproval by another state was unfounded, that can be

21 proven, Texas wouldn't be an issue. And he basically

22 said in another post with the -- citing this exact same

23 rule that SMU can prove it. So --

24 Q Okay.

25 A I'm saying I do recall reading a posting by J.P. Yates

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1 that looks very similar, but I don't recall this

2 particular post with the absence of that additional

3 language.

4 Q Okay. And just so you know, these will be exhibits so

5 the rest of the issues that are discussed in these --

6 A Okay.

7 Q -- we can deal with later.

8 A Okay. No, I only mention the rule because that's how I

9 remembered it.

10 Q Okay.

11 A These are two separate threads --

12 Q Yes.

13 A -- you gave me. Okay.

14 Q Actually, three separate threads?

15 A Okay. Then Exhibit 6 has three separate threads.

16 Okay. Then that was confusing.

17 MS. GOODWIN: All she's asked is whether you

18 recall reading them at the time they were posted.

19 THE DEPONENT: No. I don't recall the exact

20 times I read them or even if I read all of them.

21 ValueMD has so many postings, it's impossible to read

22 all of them.

23 Q (By Ms. Cornwall) Do you remember reading statements

24 of this genre for lack of a better word, statement

25 saying you should check yourself in -- however that is

Page 54

Page 56

1 phrased?

2 A I recall J.P. Yates occasionally posting things that
3 said something along the lines of -- some kind of
4 qualifying language like call or look up the rules
5 yourself. I do recall qualifying language in some of
6 his posts, yes.

7 Q Okay. Sorry to confuse you. Let's go on to Exhibit 7.

8 A Okay.

9 Q This is the same sort of thing, what I've highlighted
10 are variations on a theme. So if you wouldn't mind
11 reading them and then letting me know whether you read
12 these or other variations on this theme at the time
13 they were posted?

14 A Okay.

15 MS. GOODWIN: Do you want him to read them
16 out loud, or just read them to himself and tell you?

17 Q (By Ms. Cornwall) They're short, he can read them into
18 the record.

19 MS. GOODWIN: I was just asking.

20 THE DEPONENT: Okay. On May 5, 2005,
21 presumably J.P. Yates, under the name SMU information,
22 posted a reply, in which the text of the original quote
23 was, if you only want to practice in California, don't
24 come to SMU until approved.

25 On December 4, 2004, highlighted quote is, as I

1 Q -- of don't -- okay. So we've now just gone over
2 statements by Dr. Thornton, Dr. Green, and these
3 ValueMD postings, did any other SMU representatives
4 make any other statements, oral or written, regarding
5 SMU's efforts to obtain approval in California?

6 A I discussed the matter with Dr. Pringle. I discussed
7 the matter very briefly with Dr. Heller.

8 Q Do you recall what Dr. Pringle said on the subject?

9 A Dr. Pringle's -- said in one of the meetings we -- as
10 mentioned in the previous deposition, I asked him what
11 efforts were being undertaken to pursue California
12 approval.

13 He told me that the primary reason SMU was
14 disapproved was because the California Medical Board
15 overlooked the time that SMU was in existence in
16 Belize. He also said that they're still working on it.

17 He said the other issue with the California
18 Medical Board at least as it pertained to the Maine
19 campus was that the California Board explicitly, I'm
20 assuming verbally, but he said they -- I don't know if
21 his exact words were explicitly, but they -- someone
22 from the California Board told him in some
23 communication that he quote, cherry picked the students
24 who met with the California Medical Board.

25 Q Okay. Did Dr. Pringle make any other statements?

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1 have said numerous times before, do not come to SMU
2 until we are approved if you are only happy practicing
3 in California.

4 On March 10, 2005, Sebastien Guilbard posted, we
5 thought California students would not come until we are
6 approved.

7 On March 10, 2005, Sebastien Guilbard posted, JP,
8 long time before I started on this forum had said over
9 and over again if you want to practice in CA, do not
10 come to SMU until we are approved.

11 March 10, 2005, Sebastien Guilbard posted, as far
12 as coming to SMU, if you are from CA, I think J.P.
13 Yates has repeated hundreds of times not to come to SMU
14 if you are planning to practice in California.

15 Q (By Ms. Cornwall) I think that's it.

16 A Those are all the highlighted quotes in the exhibit.

17 Q Do you recall reading statements of this ilk?

18 A Again, I can't say if I actually read these particular
19 statements, but I did see some -- again, J.P. Yates
20 always -- not always, but many times would qualify what
21 he would say with words like this is what we think, but
22 don't rely on it.

23 Q Okay. And do you specifically remember some of the
24 qualifying language being along these lines --

25 A Yes.

1 A Not that I recall.

2 MS. CORNWALL: Would you mind reading back
3 his answer, the long one?

4 (Question appearing on Page 56, Lines 9 through 24, was
5 read back.)

6 MS. CORNWALL: Thank you.

7 Q (By Ms. Cornwall) The statement about time in Belize,
8 do you think that is -- that was a false statement by
9 Dr. Pringle?

10 A The California reported clearly mentions that SMU was
11 in existence in Belize. I really don't -- I don't
12 understand what exactly he was getting at, and it
13 doesn't appear that the time in Belize was at all
14 material to the decision made by the medical board to
15 deny SMU approval.

16 Q Okay. Do you think the statement that they're still
17 working on it was a false statement by Dr. Pringle?

18 A It is my belief that it was, yes.

19 Q Okay. What did Dr. Heller say?

20 A I don't recall the conversation with Dr. Heller very
21 well. It was a very brief conversation. It occurred
22 in 2005, in early 2005 when the campus was in its
23 temporary location in South Portland, Maine. I
24 honestly don't recall many of the details about it. It
25 was a very informal question I had about what SMU plans

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1 to do, and I really can't -- I really don't recall what
2 he said.
3 Q Okay. I think we went over most of these earlier, but
4 I just want to confirm.

5 While you were a student at SMU, you at some point
6 learned that a future California approval would not
7 automatically apply to you, but you thought the
8 possibility of retroactive -- there was a possibility
9 of retroactive application; is that right?

10 A Not entirely.

11 Q Okay.

12 A My understanding was -- through my entire time at SMU
13 was that SMU honestly believed and could support a
14 claim against the California Medical Board to actually
15 obtain approval based on the fact or the alleged fact
16 that -- that the board's report on SMU was clearly
17 erroneous.

18 I believed that based on that, there would -- if a
19 court ruled or if some other administrative body, the
20 medical board itself ruled that the decision the
21 California Board made initially was in error, the
22 approval would be at the time it should have originally
23 been, which would have been some time in 2005 or 2004.

24 Q Did anybody tell you that it would work that way, any
25 SMU representative tell you that it would work that

1 A As far as I know, it is.

2 Q Did you know that it was approved in California when
3 you decided to leave?

4 A Did I know what, Ross was approved in California, yes,
5 I did.

6 Q So we've generally been talking about representations
7 regarding likelihood of approval in California. I want
8 to change gears a little bit here and start talking
9 about representations as to the quality of the program?

10 A Okay.

11 Q In your -- let's see. One second. Okay. So in your
12 interrogatories, you identified 10 areas that you
13 believed were misrepresentations in the rebuttal. I'd
14 like to walk through each one of those.

15 A Okay.

16 Q The first is the circumstances in ownership under which
17 SMU left Belize. Could you -- we have the SMU rebuttal
18 as an exhibit here. Could you point to the false
19 statement regarding that topic for me?

20 A Okay. In Objection 2, this again is in reference to
21 St. Matthew's response to the California report.
22 Objection 2, or the portion of objection -- I'm sorry,
23 Objection 2 reads, report statement, Page 3, Paragraph
24 1. Quote, under new ownership and essentially a
25 completely new central administration and with a small

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Page 61

1 way?

2 A J.P. Yates posted somewhere that retroactivity is a
3 possibility. But I don't recall anyone else actually
4 making that statement.

5 Q Okay. Would it have been possible for you to get a
6 degree from SMU without passing Pathology II or
7 pharmacology?

8 A My understanding is it would not be possible.

9 Q Okay.

10 MS. CORNWALL: I am at a good breaking point.

11 THE DEPONENT: I agree.

12 (Recess at 12:38 p.m., to 1:35 p.m., after which the
13 following proceedings transpired.)

14 Q (By Ms. Cornwall) If you had known that SMU would
15 never be approved in California, would you have gone?

16 A No.

17 Q Even though you told us earlier that you would consider
18 practicing elsewhere?

19 A That's right.

20 Q Do you think -- if you had stayed at Ross, do you think
21 you would have graduated from Ross?

22 A I don't know. It's hard to -- it's hard to predict.

23 Q Is Ross approved in California?

24 A It is.

25 Q Texas?

1 cadre from Belize, end quote.

2 St. Matthew's says in their objection that there
3 was no change of controlling ownership when the basic
4 science campus was moved from Belize to the Cayman
5 Islands in May of 2002.

6 There are news reports from Belize that contradict
7 this story that say that there was essentially new
8 ownership, there was a hostile takeover of the school
9 in Belize.

10 There were reports in news and from Belize that
11 the St. Matthew's campus was -- was -- the actual
12 ownership and control was in dispute. There were
13 security guards brought in from an outside contractor
14 to control the access to the campus.

15 News reports from Belize contradict everything in
16 Objection Number 2 that their ownership did change, it
17 was a new administration. And really the only thing
18 that's correct is that -- basically everything that
19 California said in that objection is correct. It was
20 new ownership, new central administration, only a small
21 group of people from Belize relocated with the school.

22 Q Do you have copies of the reports that you're
23 referencing?

24 A I believe they were disclosed earlier. Do you recall
25 if they were?

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1 MS. GOODWIN: I don't recall seeing them.

2 THE DEPONENT: I can tell you they're from

3 the San Pedro Sun. It is a newspaper in Belize. It is

4 available online, if you were -- the way I found it was

5 by Googling the words St. Matthew's University and

6 lawsuit. That came up.

7 Q (By Ms. Cornwall) Do you have copies that you could

8 provide to your attorney?

9 A If I haven't already done so, I can provide links.

10 It's still online, or it was as of a few weeks ago.

11 Q And these reports would be --

12 A From mainstream newspapers.

13 Q These reports would be the only --

14 MS. GOODWIN: Let her finish.

15 Q (By Ms. Cornwall) The only reason that you believe the

16 statement in the SMU rebuttal to be false?

17 A I believe it to be false because it's contained in the

18 California report as well. St. Matthew's objection to

19 be false because --

20 Q Aside from the California report, and the newspaper

21 reports, do you have any other reason to believe that

22 the statement in the SMU rebuttal is false?

23 A Those are the only two sources I have, yes.

24 Q Okay. Do you have a reason -- or I'm sorry, when you

25 read the SMU rebuttal in February of 2005, did you have

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1 reason to be concerned about who owned the school or

2 under what conditions SMU left Belize?

3 A That wasn't something I questioned. I had -- when I

4 read it in the report, I glanced over it as something

5 that really wasn't all that important at the time. And

6 I believed what St. Matthew's said in their rebuttal.

7 I didn't think St. Matthew's would misrepresent their

8 ownership or the circumstances in which they left

9 Belize.

10 Q I'm sorry, what I mean to say is that -- why would that

11 topic be important to you at all regardless of which

12 way --

13 A Well, the stability of the school for one, if it's

14 constantly changing hands -- Ross -- one of the things

15 I didn't like about Ross, it was bought and sold

16 several times. It leads to instability in both the

17 faculty and the administration.

18 If St. Matthew's left Belize under new ownership,

19 what's to say that couldn't happen again in the Cayman

20 Islands. It would be a concern that essentially the

21 school is a commodity that's easily bought and sold and

22 can be relocated essentially at the will of a new

23 investor.

24 Q Do you think you would have left SMU if you had known

25 that the school had been sold upon its exit from

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1 Belize?

2 A I would have had concerns based on the circumstances in

3 which I now believe to be true in regards to why the

4 school left Belize. I don't know if that would have

5 been enough for me to leave the school, but it would

6 have been a serious concern.

7 Q Okay. Let's turn to duration and tenure of SMU faculty

8 and administration. And a specific allegation you made

9 is that SMU included part-time faculty in order to --

10 I'm quoting you here, boost its numbers?

11 A Yes.

12 Q Can you point -- tell me about or point me to what was

13 said you believe is untrue?

14 A Well, the statement in the rebuttal -- I'm sorry, I

15 need to find it. The use of a part-time faculty, I

16 know it's referenced somewhere in this document. I

17 think it's in the later interrogatory -- not

18 interrogatory, objection, says that only a very small

19 number of the quote, unquote, faculty in the Maine

20 campus were retired or part-time. That isn't true.

21 The overwhelming majority were part-time as

22 Dr. Pringle testified to earlier today. He employed

23 part-time faculty who were still employed in their

24 practices. He employed fellows -- fellows in

25 cardiology to teach cardiovascular drugs in the

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1 pharmacology program.

2 Q Can I stop you for a second there?

3 A Sure.

4 Q Do you believe -- let me start over. This morning

5 Dr. Pringle talked about using part-time professors for

6 the pharmacology course, was that true of all your

7 courses?

8 A In Maine, yes.

9 Q So all of your courses had --

10 A All of the courses I took in Maine included at least

11 one or more part-time faculty members.

12 Q And where is the statement -- I'm sorry, you said the

13 statement was what in the rebuttal?

14 A I need to find it.

15 Q While you're looking, can I clarify something else?

16 A Sure.

17 Q When you say all of your classes had a part-time

18 faculty member, did most of them or you can tell me how

19 much they had also a full professor and then help from

20 part-time faculty, or were courses completely taught by

21 part-time faculty members?

22 A Essentially all the courses with the exception of

23 pathology in Maine were taught in their almost entirety

24 by part-time faculty.

25 Q So genetics?

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1 A Genetics was entirely taught by part-time faculty.
 2 Q Pathology II?
 3 A Pathology II was taught by Dr. Wilhoite who was a
 4 retired pathologist, and he was assisted by Dr. Pusch
 5 who was another part-time -- or I'm sorry, another
 6 retired pathologist. Dr. Pusch was essentially
 7 part-time. He only taught I believe two to three weeks
 8 per semester.
 9 Q But Dr. Pringle and Dr. Wilhoite were essentially
 10 full-time?
 11 A Dr. Wilhoite I would not classify as full-time. He was
 12 not on -- he was there regularly, but he was not there
 13 eight hours a day. He would basically teach in the
 14 morning for maybe two or three hours, three or four
 15 days a week and that was the extent of his involvement
 16 of campus.
 17 Q Okay. We can look at what the operative definition of
 18 full-time is later. Is that term discussed in the
 19 rebuttal?
 20 A I'm still looking for it.
 21 Q Why don't you stop.
 22 A Can we take a break? Actually, if we take a break, I
 23 can find it.
 24 MR. LAPP: Sure.
 25 (Recess at 1:47 p.m., to 1:50 p.m., after which the

1 concerned about that?
 2 A Again, when I read the initial California report, I was
 3 also presented with SMU's rebuttal. And at the time, I
 4 honestly did not believe a medical school would lie or
 5 misrepresent anything to a medical board.
 6 Q I'm sorry. What I mean by that is, was it a concern
 7 of -- if you knew it to be true that your instructors
 8 were retired or part-time in greater percentages than
 9 you had thought, why was that -- why was that
 10 concerning to you?
 11 A It was a concern for several reasons. First of all,
 12 it's accessibility to faculty. On SMU's campus
 13 particularly -- well, in Maine in particular, it was
 14 next to impossible to meet with faculty because if a
 15 question arose, they weren't readily available.
 16 They either had their own practices, some cases
 17 they lived in remote parts of the state. They were not
 18 readily accessible. There was limited opportunity for
 19 interaction with faculty. There were no research
 20 opportunities available.
 21 In a sense, if -- had I known that SMU's campus
 22 here in Maine essentially didn't have any faculty
 23 members on campus in the courses I was taking with whom
 24 I could interact with regularly, I wouldn't have chosen
 25 the school.

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1 following proceedings transpired.)
 2 Q (By Ms. Cornwall) So I want to confirm, when you said
 3 that in all the courses you took in Maine, there was at
 4 least one part-time instructor?
 5 A Yes.
 6 Q So all of the courses you took would have been
 7 Patient/Doctor 4, Pharmacology, Pathology II, genetics,
 8 and is it clinical diagnostic --
 9 A Clinical therapeutics.
 10 Q Clinical therapeutics?
 11 A Yes.
 12 Q And I know you weren't able to find it in there in the
 13 rebuttal in a quick run through, is it your
 14 recollection that the statement referred to just those
 15 fourth semester classes, or to all the classes that
 16 were taught in Maine?
 17 A Again, to my recollection, I'd be a lot more
 18 comfortable if I could actually find it, but after just
 19 a preliminary scan of the rebuttal, my recollection was
 20 that SMU alleged that only a small minority of faculty
 21 were either part-time or retired. In actuality, what I
 22 found particularly on the Maine campus is that the
 23 overwhelming majority were part-time or retired or
 24 combination of both.
 25 Q When you read the report, did you have a reason to be

1 Q Was Dr. Pringle accessible?
 2 A He was on campus most of the time. I wouldn't --
 3 getting an appointment with him wasn't always easy.
 4 Q Dr. Wilhoite?
 5 A He was -- I wouldn't regard him as accessible. He was
 6 only on campus in the early mornings. And after that
 7 you could speak to him after class, but there wasn't
 8 much opportunity beyond that to interact with him.
 9 Q You said -- understanding that instructors -- saying
 10 that, you know, an eight hour day and complete
 11 availability for college instructors or graduate school
 12 instructors is not necessarily the norm, would you say
 13 that Dr. Pringle, Dr. Wilhoite and Dr. Pusch or any one
 14 of them fell into the category of people who were
 15 unaccessible to you?
 16 A Yes.
 17 Q Because they were retired or part-time?
 18 A Yes.
 19 Q Which ones?
 20 A All.
 21 Q Okay. And did you believe there was a quality of
 22 instruction problem with part-time or retired faculty?
 23 A Yes.
 24 Q Can you explain?
 25 A With retired faculty, they're not often in touch with

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1 yes.

2 Q And how long did it -- how many times did you take

3 pathology and pharmacology?

4 A Three times.

5 Q And did you otherwise stay on course, in other words,

6 did you begin your fifth semester classes at all?

7 A Clinical therapeutics was considered a fifth semester

8 course, and I did take that in the summer of 2006.

9 Q In the fall of 2006, you told us that you only took

10 pharmacology and pathology; right?

11 A I'm sorry, in the fall of -- yes. In terms of only SMU

12 courses.

13 Q And in the summer, you had the clinical --

14 A Therapeutics.

15 Q -- therapeutics, and how many -- was that a course that

16 had the same unit value as pharmacology and pathology?

17 A No.

18 Q How many -- what would be the size or the work involved

19 in that course relative to the big courses like

20 pharmacology and pathology?

21 A It was a two credit class, I believe.

22 Q Whereas pharmacology would be?

23 A I don't recall, I think maybe six, seven.

24 Q Okay. So wouldn't you say that you effectively created

25 an extended pathway over those three terms?

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1 A No, because it wasn't offered -- nothing was offered to

2 me to actually take anything else out of sequence. I

3 wasn't offered the opportunity to take Pathology I on

4 its own or pharmacology -- I'm sorry, Pathology II on

5 its own or pharmacology. I wasn't given that

6 opportunity. That wasn't an extended pathway. I

7 failed a course. I had to repeat it. That's not a

8 means of extending the program.

9 Q You didn't pursue the -- you did not finish those

10 classes in the ordinary pathway; correct?

11 A The ordinary pathway being?

12 Q Passing them the first time in spring --

13 A No, I did not pass them.

14 Q You were instead allowed to take them again in the

15 summer of 2006 and again in the fall of 2006; correct?

16 A That is correct.

17 Q And whereas most students would take Pathology II,

18 pharmacology, genetics, and Patient/Doctor 4 at the

19 same time, you took --

20 A No.

21 Q They would not?

22 A Some students who had failed previous courses were

23 given different schedules. Some students who had

24 transferred in with credits from other schools with a

25 curriculum that was different took different courses.

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1 That would be the standard curriculum, but it certainly

2 wasn't what every student took.

3 Q Aside from not having someone sit you down and say the

4 magic words, would you like an extended pathway, do you

5 see that you were given longer than it would take the

6 average person to pass these courses?

7 MS. GOODWIN: Objection.

8 THE DEPONENT: No, I don't -- I don't say I

9 was given longer than the average person. I was given

10 additional attempts to pass courses and that's -- that

11 was in the catalog, that was in the handbook. That was

12 not listed as part of the extended pathway program.

13 Q (By Ms. Cornwall) If you had not read that an extended

14 pathway would be available, would you have left SMU in

15 February of 2005?

16 A I'm sorry, can you repeat the question?

17 Q If you had not read that an extended pathway would be

18 available, would you have left SMU in February of 2005?

19 MS. GOODWIN: Just going to object because I

20 don't know if had read when.

21 Q (By Ms. Cornwall) In the rebuttal? If the

22 representation regarding the existence of an extended

23 pathway had not been in the rebuttal, if that

24 representation had not been made --

25 A Let me make sure I'm understanding your question. Are

Page 77

1 you asking me that if I -- assuming I didn't know the

2 existence of an extended pathway, would I have

3 continued at SMU?

4 Q Correct.

5 A I can't say that my decision to stay at SMU was

6 contingent on my knowledge of an extended pathway.

7 Q Okay. Let's turn to existence of financial aid entry

8 and exit interviews. What is the representation that

9 is false with respect to those, if you remember, if you

10 can find it?

11 (Repetto Deposition Exhibit Number 8 was marked for

12 identification.)

13 Q (By Ms. Cornwall) Was it just the existence of exit

14 and entry interviews?

15 A I want to see what it actually said. I don't recall.

16 Can you please repeat your last question?

17 Q You said that the existence of financial aid entry and

18 exit interviews --

19 A Yes. And that -- that would be in regards to Objection

20 Number 8 made by SMU in the rebuttal to the California

21 report. And their objection contains several factually

22 incorrect statements. To quote directly, entrance and

23 exit interviews, as well as quote, unquote, debt

24 management presentations by the director of financial

25 aid each semester directly educate and inform students

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1 regarding their financial aid issues, including loan
2 consolidation and maintaining good credit.

3 In my entire six semesters at SMU, at no time was
4 I ever given any opportunity to attend a debt
5 management presentation by the financial aid office or
6 anyone else.

7 Q Okay. Let's focus on the exit and entry interviews.
8 This is marked as Exhibit 8. Can you tell me what that
9 is?

10 A Yes, it's a signature for -- on a loan entrance and
11 exit interview form.

12 Q So your signature here says that you had a student loan
13 entrance and exit interview?

14 A No, I never had an interview.

15 Q Do you know that student loan exit -- student loan exit
16 and entry interviews are standard in college, it's not
17 a sit down interview?

18 A Yes, I'm aware of that.

19 Q What do you think an exit --

20 A An interview would be an actual interview. And no
21 interview ever took place. No meeting with the
22 financial aid office, no discussion with the financial
23 aid office ever took place before this document was
24 signed.

25 Q Where did you get this document?

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1 A The financial aid office, I believe.

2 Q And there was no discussion --

3 A None.

4 MS. GOODWIN: Let her finish the question.

5 THE DEPONENT: I'm sorry.

6 Q (By Ms. Cornwall) -- of loans you were applying for on
7 any other forms? It doesn't have to be an oral
8 discussion, there was no exchange of information
9 regarding your finances or your application for loans?

10 A I never spoke to anyone with the financial aid office.
11 As far as I know, prior to this loan -- this document
12 being signed, I really don't recall anything the
13 financial aid office ever spoke to me about in regards
14 to my finances.

15 Q Let's say the purpose of an entrance -- a student loan
16 entrance interview is to convey to you the information
17 typed here on this form of borrower responsibilities
18 and borrower rights, by signing this -- if that's the
19 case, that's what an entrance interview is, by signing
20 this form, did you state that you had read that
21 information and gotten this entrance interview?

22 MS. GOODWIN: Object to form.

23 MS. CORNWALL: I said if.

24 MS. GOODWIN: I know what you said, I'm still
25 objecting.

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1 THE DEPONENT: Based on that very narrow

2 definition, yes, my signature indicates my
3 acknowledgement of reading and understanding these
4 terms.

5 Q (By Ms. Cornwall) Okay. Now assuming that you did not
6 receive an entrance or exit interview, would you have
7 left SMU in 2005 if you had known that you would not
8 receive a student loan exit interview?

9 A Based solely on that fact alone, no. But it would
10 raise serious questions as to the school's
11 administration.

12 Q Not receiving a student loan exit interview would raise
13 serious questions as to the school's administration?

14 A Yes.

15 Q Was there anything about your loans you didn't
16 understand?

17 A I don't know if there's anything I didn't understand.
18 At the time I don't recall anything.

19 Q Have you subsequently learned of anything that you --
20 any information you think should have been conveyed to
21 you on an exit interview that you did not receive?

22 A I can't think of anything.

23 Q Let's look at the debt management presentations part.
24 Did you take out solely enough debt to cover your
25 education expenses, or did you take out more debt than

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1 you needed?

2 A Well, if you include education expenses, living
3 expenses, costs of food, housing, that's what I
4 borrowed, yes.

5 Q Do you think that you were irresponsible in taking out
6 debt?

7 A I can't say there was anything I did wrong given the
8 cost of living in the Cayman Islands. It's very
9 expensive.

10 Q So do you think you personally had any issues with debt
11 management?

12 A Personally, no.

13 Q So would the existence of debt management presentations
14 have changed your behavior in any way?

15 A Most likely not.

16 Q Okay. So let's go on to the next one which I think is
17 one that we talked about a little bit this morning with
18 Dr. Pringle, the claimed similarities between the Maine
19 and Cayman campuses?

20 A Okay.

21 Q Can you point me to what was said that was false about
22 the similarities between the two campuses? Actually,
23 can we stop and go back for a second. I want to go
24 back to if you look at Objection Number 7?

25 A Okay.

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1 Q If you look at the objection that SMU makes, this is
 2 the extended pathway that we were having trouble
 3 finding earlier?
 4 A Okay.
 5 Q What in that objection is a false statement?
 6 A The ability to -- the existence of a program that
 7 exists to allow someone to extend their -- their -- the
 8 duration of their instruction.
 9 Q This says that it's rarely used and applicable only to
 10 students with exceptional physical or learning
 11 disabilities; right?
 12 A No, it does not say that. It says such as blindness,
 13 deafness or documented learning disabilities. It
 14 doesn't say that those are -- to the exclusion of those
 15 factors.
 16 Q Would you mind reading the sentence that starts
 17 SMUSOM's into the record, please?
 18 A This is a complete mischaracterization of SMUSOM's
 19 extended pathway program. SMUSOM's program is a rarely
 20 used, purely internal program wherein, upon approval
 21 from the dean, students with exceptional physical or
 22 learning disabilities such as blindness, deafness or
 23 documented learning disabilities are allowed to extend
 24 their basic science coursework over six semesters
 25 rather than five.

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1 This program in no way involves other
 2 institutions, offshore sites, or meeting preadmission
 3 academic requirements.
 4 Q Do you have any exceptional physical disabilities?
 5 A No.
 6 Q Do you have any exceptional learning disabilities?
 7 A Not that I'm aware of.
 8 Q Okay. Now let's go back to the similarities between
 9 the Maine and Cayman campuses. I believe it's
 10 Objection Number 23.
 11 A Okay. In regards to Objection 23, the course titles
 12 are identical, but the -- the objection says SMUSOM
 13 Grand Cayman and Maine have the same books, syllabi,
 14 exams and grading policy.
 15 That is not at all true. When -- my time there,
 16 that is entirely false. The books may have been the
 17 same. They used the standard textbooks that were used
 18 by essentially all medical schools, but the syllabus
 19 was subject to constant revision.
 20 The campus in Maine had -- the campus in Maine had
 21 exam questions written by the faculty resident in
 22 Maine, and as Dr. Pringle testified to earlier, they
 23 were given considerable latitude in selecting the type
 24 of question used.
 25 The exam frequency was very different. Many --

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1 the pathology course in Maine had several more exams
 2 than the pathology course in the Cayman Islands.
 3 The grading policy was different in that extra
 4 credit points were not given universally and all exams
 5 did not have equal weight. The use of SHRLF exams was
 6 subject to different use, usage and grading on each
 7 campus.
 8 The objection also states that departmental
 9 meetings occur at least once per semester via realtime
 10 teleconferencing, that's something that I can't comment
 11 to. But I -- like I said, the books might have been
 12 the same or similar, but the syllabi were very
 13 different. The exams were very different. The grading
 14 policies were different.
 15 Q Let's focus just on Pathology II and pharmacology. Did
 16 you take the pharmacology and Pathology II exams in --
 17 on the Cayman campus in the Cayman course?
 18 A No, I did not.
 19 Q This morning Dr. Pringle told us that those exams were
 20 largely the same, and that the professors on the two
 21 campuses came up with questions and then reconciled
 22 them, where do you get knowledge to the contrary?
 23 A Knowledge to the contrary comes from other students and
 24 the exam schedule that was published by SMU on their
 25 website for the Cayman campus.

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1 Q Let's talk about the content of the exam, less so than
 2 the scheduling?
 3 A Okay. The content of the exam also differed just as
 4 Dr. Pringle admitted, the fact -- each faculty member
 5 at least in pharmacology in Maine wrote up their own
 6 questions. That's very different than the two or three
 7 faculty members they had in Cayman for pharmacology
 8 writing questions. Clearly there's going to be some
 9 discrepancies between the two exams.
 10 I also don't believe that all the part-time
 11 faculty members used in pharmacology in Maine ever
 12 teleconferenced with the two faculty members in the
 13 Cayman Islands.
 14 Q Do you have any proof of that, or that's just a hunch
 15 that you have that there was no teleconferencing?
 16 A I have no proof. But I would -- I would be very
 17 surprised if it was.
 18 Q Did anybody ever tell you there was no
 19 teleconferencing?
 20 A Not explicitly.
 21 Q Someone implied to you there was no teleconferencing?
 22 A I never really discussed the issue of teleconferencing
 23 with anyone.
 24 Q Did you ever see exams from the Cayman courses at the
 25 same time you were taking Pathology II or pharmacology

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1 in Maine, did you ever see the comparable exam from the
 2 Cayman course?
 3 A No, generally exams weren't returned to students.
 4 Q So your belief the exams were different comes from what
 5 you were told by other students?
 6 A That, and knowing that the exam schedule differed
 7 considerably.
 8 Q I'm just talking about the content of the exam?
 9 A Well, the content of the exam wouldn't be the same if
 10 the scheduling was the same. The content of the exams
 11 in Maine differed in part because it was a different
 12 exam schedule and the exams happened with more
 13 frequency. Obviously, the exams in Maine covered more
 14 narrow -- were more narrow in scope than the exams in
 15 Cayman.
 16 Q Do you think it's possible that there was a -- let's
 17 say a 20 question exam in Maine and then two 10
 18 question exams in the Caymans so that everyone got the
 19 same exam questions, but scheduled differently, is that
 20 like a logical possibility?
 21 A I don't believe it's a logical possibility. Why would
 22 you give someone the same exam questions at different
 23 times, that would ruin -- that would raise very serious
 24 questions as to security issues.
 25 Q Okay. For the syllabi, did you see Cayman syllabi, and

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1 do you have any of those Cayman syllabi to show they're
 2 different from the Maine syllabi?
 3 A I personally don't have any, but I did see the
 4 differences. One I think was posted online somewhere
 5 that I did see at one point.
 6 Q Can you direct us to that?
 7 A I don't recall where it was. I think it might have
 8 been on SMU's angel site. I'm not sure, though.
 9 Q Do you have any printouts about the exam frequency, the
 10 scheduling?
 11 A In Maine, yes, I do.
 12 Q In Cayman?
 13 A In Cayman, I do not.
 14 Q The grading policy and the giving of extra credit,
 15 where did you get information that extra credit was
 16 being given in Cayman?
 17 A Other students. There were other -- there were times
 18 in Cayman where exam questions were thrown out or just
 19 arbitrarily everyone was just given credit for those.
 20 It was common practice in the Cayman Islands when I was
 21 there, and it continued into the third and fourth
 22 semesters based on what I've heard from other students.
 23 Q So we're just talking about Pathology II and
 24 pharmacology right now?
 25 A Yes.

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1 Q So you did not take Pathology II or pharmacology in
 2 Cayman?
 3 A No, I did not.
 4 Q So your knowledge that extra credit was given on Cayman
 5 Pathology II and pharmacology exams would come from
 6 where?
 7 A Secondhand sources.
 8 Q Like?
 9 A Other students.
 10 Q And other students from the Cayman campus you
 11 communicated with how?
 12 A Through instant messaging, emails.
 13 Q And what about use of SHELF examinations?
 14 A Use of -- the policy in Maine was never set as to how
 15 the SHELF examinations would be used or graded. In
 16 the -- in my -- actually, I think in all three
 17 semesters, I was in Maine until the very end of the
 18 semester. I remember speaking to the student affairs
 19 office with just a few weeks left in a semester, and we
 20 still weren't certain how many points or what
 21 percentage the SHELF exam would count toward the final
 22 grade.
 23 Q But right now we're talking about differences between
 24 Maine and Cayman?
 25 A Right. That's what -- that's one of the differences.

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1 Maine -- my understanding was the Cayman campus, their
 2 syllabus was fixed. In Maine it was more fluid.
 3 Q We were talking about SHELF exams?
 4 A That's -- yes, we were. The SHELF exam grade was not
 5 finally determined until well into the semester. So
 6 what -- what I would have needed to score on a SHELF
 7 exam to pass a course changed based on what the final
 8 determination was as to what the SHELF exam would count
 9 for, would the SHELF exam count for 10 percent, would
 10 it count for 20 percent, what was the weight given to
 11 the SHELF exam in the course.
 12 Q Did you change the way you took the SHELF exam based on
 13 what you thought the weight would be?
 14 A It influenced my decision on how I would study for each
 15 course.
 16 Q So you might have studied less for a SHELF exam than
 17 you otherwise would have?
 18 A It's next to impossible to study for a SHELF exam, it's
 19 studying for the exams that lead up to it.
 20 Q So had you known that SHELF exams would carry more
 21 weight, you would have studied harder for the SHELF
 22 exam?
 23 A Again, it's next to impossible to study for a SHELF
 24 exam. A SHELF exam is basically a cumulative exam of
 25 everything in a subject area. And it can include

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1 material that might not necessarily be taught in that
2 subject, but is relevant. It's a national exam. It's
3 a standardized exam.

4 If I had known the weight would have been
5 different, I would have known -- I would have been able
6 to gauge my performance, known the likelihood of
7 passing based on other exams leading up to it. I would
8 have known what each exam actually counts for. It
9 was -- on the Maine campus it was like trying to hit a
10 moving target. I didn't know what the final grading
11 policy would be until near the end of the semester.

12 Q So you would have studied harder for the other tests?

13 A I would have studied harder, I would have budgeted my
14 time differently.

15 Q So you did not study as hard as you could have?

16 A I didn't say that. I said I would have budgeted my
17 time differently. I would have focused on other things
18 at different times.

19 Q Are you saying that you would have studied -- you would
20 have changed the distribution between pharmacology and
21 Pathology II of your study time?

22 A Yes. Based on different times in the semester during
23 when exam -- based on the exam schedule.

24 Q And this is all based on the weight that would be given
25 the SHELFF exam?

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1 A Yes. And all the other exams. You can't change the
2 weight of one exam without changing the weight of the
3 other exams.

4 Q Okay. Let's go back for a second. You talked about
5 speaking to students on the Cayman campus about all of
6 these issues, use of the SHELFF exam, whether they got
7 extra credit, when their exams were, what the content
8 of their exams were, what their syllabi said, do you
9 have any of these IMs or emails?

10 A No, I don't save IMs.

11 Q Emails?

12 A Don't think so.

13 Q What other students did you talk to?

14 A I'm trying to think of names and some of them escape me
15 right now. Right now some of the names are escaping
16 me.

17 Q Okay. Is it -- I take it from what you're saying that
18 you don't believe these statements about the Cayman
19 campus were just rumors?

20 A That's right.

21 Q Is it possible that these were rumors you were hearing
22 from people?

23 A Well, anything is possible. But I do not believe these
24 to be rumors.

25 Q But you don't have any of the correspondence or any of

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1 the exams or syllabi or exam schedules or anything else
2 from the Caymans that would confirm that the two
3 campuses are different?

4 A I personally don't have those, no. But it would seem
5 likely that SMU would probably maintain such records.

6 Q This morning Dr. Pringle said that what he told people
7 was that they made efforts to make the courses as equal
8 as possible. He said no two individuals are ever going
9 to teach an identical course, but that efforts were
10 made to make the courses as equal as possible, does
11 that sound like what he told you --

12 A No.

13 Q -- at the time?

14 A No, not at all.

15 Q What did he tell you at the time?

16 A In meetings with him, he always prided himself on the
17 fact that he saw the Maine campus as being superior.
18 He saw the instruction there as being more rigorous and
19 a better preparation.

20 Q Is your complaint that the courses were too good in
21 Maine?

22 A By good, are you referring to quality?

23 Q Yes.

24 A No. I'm not saying that at all. The courses in Maine
25 for reasons I've already stated I thought were -- left

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1 a lot to be desired. And I would not regard them as
2 quality. I would regard them as difficult, but
3 certainly not quality.

4 Q So you believe the Cayman courses were higher quality?

5 A I'm -- again, I don't know. I'm not going to speculate
6 as to which campus had higher quality.

7 Q What I'm trying to get at is why it mattered to you
8 that there were differences between the two campuses?

9 A There were differences because there were discrepancies
10 in grading. And when I went to the Maine campus, I did
11 it based on SMU's representations that the campuses
12 would be equal. They weren't.

13 Q You enrolled in the St. Joseph's program when you first
14 enrolled in SMU, correct?

15 A That is correct.

16 Q And in order to achieve the MHSA, you had to do your
17 fourth semester in Maine, correct?

18 A I don't believe it was required to complete the MHSA to
19 come to Maine.

20 Q You could have completed the entire MHSA degree from
21 Cayman?

22 A I believe so, yes.

23 Q Did you apply for the federal Stafford loans through
24 the St. Joseph's program?

25 A I did.

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1 Q And in order to get that financial aid, would you have
2 had to have been in Maine?
3 A For the fourth semester, yes.
4 Q So when you entered SMU, you had decided to also enter
5 the St. Joseph's program and get your MHSA, correct?
6 A Correct.
7 Q And you needed the federal Stafford loans in order to
8 complete the MHSA, correct?
9 A I needed the federal staff -- are you asking if I
10 needed -- I don't understand the question. Are you
11 asking if I actually needed the federal Stafford loans
12 to complete the master's degree in health
13 administration?
14 Q Did you need the loans to complete the degree?
15 A Yes.
16 Q So you had to be in Maine for your fourth semester
17 regardless of any representations?
18 A I wouldn't have said that, no, I could have used credit
19 cards to pay for the tuition for the MHSA if I would
20 have been able to take it online.
21 Q That is, if you're correct that you could have taken --
22 you could have completed the MHSA entirely from Cayman?
23 A Right. And it's my belief that that would have been an
24 option since the MHSA at St. Joseph's College is
25 predominantly offered online.

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1 Q Did you have a meeting with Dr. Pringle where you
2 stated a desire to go to the Cayman campus?
3 A I did ask in I believe it was the -- either the spring
4 or the summer of 2006 if it would be a possibility for
5 me to transfer back to the Cayman campus, and I asked
6 Dr. Pringle that question. And I was told no, once I'm
7 in Maine, I was obligated to complete the program in
8 Maine.
9 Q Are you sure that you weren't told that you could
10 transfer to the Cayman campus, but you couldn't keep
11 your federal Stafford loans?
12 A Yes, I'm sure that's -- that's what he said. He did
13 not -- we weren't discussing loans, we were speaking
14 solely on whether or not I could stay at St. Matthew's
15 and return to the Cayman Islands campus. I even
16 said -- I even -- I qualified the question with
17 regardless of St. Joseph's, can I go back.
18 Q Did you read any of the traffic back and forth on
19 ValueMD about the differences between the two campuses?
20 A I think I may have seen something, I mean, 2005, about
21 some differences.
22 Q Were there disagreements that you recall on ValueMD,
23 some students saying that there were vast differences
24 between the campuses and others saying there weren't?
25 A I don't recall. Again, I didn't -- I relied on what

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1 St. Matthew's told me. I didn't rely on what ValueMD
2 said. I regard a lot of what ValueMD -- what's on
3 ValueMD as rumors because it's posted -- it's posted
4 completely anonymously, anyone can open an account
5 completely anonymously and post whatever they want. A
6 lot of what's on there, even now, I still believe a lot
7 of what's on ValueMD, unless it can be attributed to a
8 known source is a rumor.
9 Q So your sources for knowledge about the Cayman campus
10 are other students with whom you IM'd and emailed, not
11 postings on ValueMD?
12 A No, I didn't rely on anything on ValueMD to -- when I
13 say there were differences between the two campuses,
14 that's not based on what I read on ValueMD.
15 Q But you can't remember the names of the students --
16 A There were some students I talked to via IM who I was
17 acquainted with. And then there were other discussions
18 I had with students who were actually on the Maine
19 campus who kept in closer touch with students who
20 remained in Cayman.
21 Q So there were some students whose names you can't
22 remember who were directly in the courses in Cayman,
23 and some of the information came from other Maine
24 students telling you that they had talked to students
25 in Cayman?

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1 A Yes.
2 Q When you were here because of hurricane Ivan, when you
3 were on the temporary campus, did you visit the Windham
4 campus where the fourth and fifth semester courses
5 were?
6 A No.
7 Q You never went?
8 A No. I drove through Windham, but I didn't know where
9 the campus was.
10 Q If you had known, assuming it to be true that courses
11 in the Caymans were graded more generously, the exam
12 schedule was more generous, would you have stayed in
13 the Cayman campus rather than coming up to Maine?
14 A Yes.
15 Q Even if that meant you could not be in the St. Joseph's
16 program?
17 A Yes.
18 Q And would you have transferred back to the Cayman
19 campus even if it meant losing federal Stafford
20 funding?
21 A Yes.
22 Q Do you believe the courses in Maine were more rigorous
23 than the courses in Cayman for just Pathology II and
24 pharmacology?
25 A I wouldn't say rigorous, I definitely believe they were

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1 just more difficult.

2 Q Why were they more difficult?

3 A Exam questions were structured more -- in a more

4 difficult manner. In pharmacology, it was a challenge

5 to deal with different faculty members essentially

6 every lecture period.

7 Q In the summer of 2006, did you talk to Dr. Pringle who

8 talked to Dr. Wilhoite who changed the Pathology II

9 exam, changed some of the phrasing of the questions on

10 the Pathology II exam at your asking?

11 A I don't understand your question.

12 Q I'll start with another question. Is it true -- do you

13 do better on open ended questions, or do you do better

14 on more specific questions on exams?

15 A I really don't see how that's relevant because all

16 these questions at St. Matthew's were all multiple

17 choice. There were no open ended questions.

18 Q Did Dr. Wilhoite change the wording of exam questions

19 at your request?

20 A I don't believe he ever did.

21 Q Did you see a difference between conceptual multiple

22 choice questions and more detail oriented multiple

23 choice questions?

24 A Yes.

25 Q Which type of question did you prefer?

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1 A Conceptual.

2 Q But you don't recall having asked Dr. Pringle to ask

3 Dr. Wilhoite to put more conceptual questions on the

4 exam than detailed questions?

5 A I never recall explicitly asking anyone to change the

6 exam questions.

7 Q Do you remember telling Dr. Pringle that you did better

8 with conceptual questions than detailed questions?

9 A Yes. I told Dr. Pringle I'd do better with conceptual

10 matters as opposed to more detail oriented.

11 Q But you don't know anything about the exam being

12 changed to include more conceptual questions?

13 A No, as far as I know, no exam was ever changed on the

14 basis of anything I ever did.

15 Q Okay. Let's talk about withdrawals. This is the next

16 assertion you say that the SMU rebuttal stated that

17 students are not advised to withdraw from classes. Is

18 your problem with the statement that Dr. Pringle did

19 advise you to withdraw from Pathology II and

20 pharmacology during the spring, 2006, term after you

21 told him that you were failing both courses?

22 A I don't recall he was the one who advised me to

23 actually withdraw. That actual advice came from I

24 believe it was Dr. Berman.

25 Q Dr. Berman. Your problem with the statement that

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1 students were not advised to withdraw from classes is

2 what?

3 A First of all, it's a misrepresentation because it

4 happened routinely.

5 Q What happened routinely?

6 A SMU personnel and student -- in the student affairs

7 office or Dr. Pringle would advise students to withdraw

8 from classes.

9 Q Do you think you would have passed pharmacology and

10 Pathology II in spring, 2006, if you had not withdrawn?

11 A I believe that my -- it would have been likely in

12 pharmacology because the last two exams -- at least the

13 last exam, probably the exam leading up to that were

14 made increasingly easy. The average on the first exam

15 was incredibly low, but the final exam in pharmacology,

16 I believe the average was in the 90s.

17 Q If you had not been advised to withdraw, would you have

18 stayed in those courses or withdrawn?

19 A I don't know.

20 Q If you had stayed in the classes and failed them,

21 spring, 2006, you would be in the same position with

22 respect to a combination of three withdrawals or

23 failures; correct?

24 A Correct.

25 Q Would you have left SMU if the rebuttal had stated that

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1 students are sometimes advised to withdraw if they were

2 failing courses and are confident they can pass in a

3 subsequent term?

4 A I wouldn't have withdrawn on the basis of that

5 statement alone.

6 Q Would you have left SMU at the time Dr. Pringle advised

7 you to withdraw if he had not -- I'm sorry. You're

8 saying Dr. Berman now?

9 A Yes.

10 Q You would have left SMU at the time Dr. Berman advised

11 you to withdraw if he had advised you not to withdraw?

12 A I'm sorry, what?

13 MS. GOODWIN: I have no idea what that

14 question was.

15 THE DEPONENT: Can we take a break?

16 MR. LAPP: Try to ask that question again.

17 Q (By Ms. Cornwall) I actually don't need to ask that

18 question. Ill-conceived. You still want a break?

19 A Yes, if we could.

20 (Recess at 2:44 p.m., to 2:51 p.m., after which the

21 following proceedings transpired.)

22 Q (By Ms. Cornwall) Let's talk about research

23 opportunities?

24 A Okay.

25 Q What misstatements were made to you regarding research

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1 opportunities?

2 MS. GOODWIN: I'm sorry, I just want to

3 clarify, are we still just talking about the

4 California?

5 Q (By Ms. Cornwall) The rebuttal, yes. You said earlier

6 there were no research opportunities to speak of; is

7 that right?

8 A Yes, I'm trying to find the exact reference point in

9 the rebuttal.

10 Q I think we can move along.

11 A Okay. If we can digress just for a moment. The

12 question earlier that you asked that I could not find

13 was in terms of the number of retired faculty or

14 part-time faculty, Objection 31 states of the 18

15 teachers who teach basic science courses in Windham,

16 Maine, only three are retired, 15 are continuing active

17 teaching, research, and medical practices. That is

18 83 percent are not retired.

19 Of the full-time faculty, that is a

20 misrepresentation because essentially all of the

21 faculty members who could even be considered full-time

22 on the Windham campus were retired.

23 Q Let's talk about pharmacology and Pathology II?

24 A Okay.

25 Q Dr. Pringle?

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1 A Yes.

2 Q Do you consider him retired?

3 A Yes.

4 Q He's working full-time as an administrator and a

5 teacher?

6 A He's retired from medical practice.

7 Q Okay. And Dr. Wilhoite?

8 A He is retired as well. He only -- as far as I know, he

9 only teaches, and then he spends a few hours part-time

10 a week as a practicing pathologist.

11 Q So he is still practicing pathology?

12 A On a part-time basis.

13 Q And what about Dr. Pusch?

14 A Dr. Pusch I believe relocated to I believe it was

15 Oregon to retire.

16 Q While you were in school?

17 A He's been retired. During classes, he flew in from I

18 believe wherever he is, Portland, Maine, I believe. He

19 flew in to teach for a few weeks.

20 Q He flew to Windham from Portland?

21 A Well, I don't know if Windham has an airport, but he

22 flew in. He flew to Maine from somewhere else to

23 teach.

24 MS. GOODWIN: You said he flew from Portland,

25 Maine.

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1 THE DEPONENT: I'm sorry, I apologize, I

2 believe Portland, Oregon.

3 Q (By Ms. Cornwall) Dr. Pusch wasn't practicing at that

4 time?

5 A I don't believe he was.

6 Q Research opportunities, did you have time to do

7 research?

8 A I would have been interested in pursuing it, I would

9 have made time if the opportunity had presented itself.

10 Q You said that you were studying as hard as you could?

11 A Yes.

12 Q And yet you still could not pass Pathology II and

13 pharmacology?

14 A Yes.

15 Q Do you think you would have been able to pass Pathology

16 II and pharmacology if also doing research?

17 A If I had --

18 MS. GOODWIN: Objection. You can answer.

19 THE DEPONENT: If I had the opportunity to do

20 research, I would have wanted to use it to increase --

21 increase my CV, have some more -- have something else

22 in my background. And if I had done it, it would have

23 opened up opportunities after my dismissal.

24 Q (By Ms. Cornwall) And fourth semester students, did

25 fourth semester students generally do research?

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1 A I knew of none on the Maine campus who were engaged in

2 research.

3 Q What about fourth semester students at Ross?

4 A There were limited research opportunities while at

5 Ross. I was part of a small research project.

6 Q As a --

7 A I believe as a second semester student.

8 Q Okay. Let's turn to your relationship with

9 Dr. Pringle. How many times -- how often did you speak

10 with Dr. Pringle about substantive issues, would you

11 say?

12 A Maybe once or twice a semester. Toward the end maybe

13 twice. My final semester, I think I spoke with him

14 three times.

15 Q Did you like him?

16 A I honestly can't say I really knew him well enough to

17 form that sort of opinion.

18 Q Do you think he tried to help you?

19 A No.

20 Q Do you think he had your best interests in mind?

21 A No.

22 Q You allege that Dr. Pringle said withdrawals were not a

23 big deal and that residency programs would not take

24 much notice of them; correct?

25 A That's right.

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1 Q Is it possible he told you that withdrawals would not
2 significantly impact you in a negative way with respect
3 to residency programs if you subsequently retook and
4 did well on the courses?
5 A He didn't add those qualifiers.
6 Q You're positive that that's not how he phrased it?
7 A That's not how I recollect the conversation.
8 Q So you understood after the conversation that you could
9 withdraw, and it wouldn't be a big deal even if you
10 subsequently did not pass the course?
11 A Based on that conversation, it appeared that the
12 withdrawal would have virtually no impact on my future
13 career.
14 Q Had you at that time read the provision of the student
15 handbook that said a student with a combination of
16 three withdrawals or failures in a single class would
17 be dismissed?
18 A Yes.
19 Q So you knew that a withdrawal could have that effect?
20 A Could have what effect?
21 Q A combined effect with two failures or another
22 withdrawal and a failure of dismissal?
23 A Yes, I was aware of that.
24 Q You in legal filings have said that you failed the
25 November 8th Pathology II examination because your

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1 A According to this, yes.
2 Q Do you want to take a second to look at this and tell
3 me if you think it is accurate?
4 A Again, I would have to actually see my old exams to be
5 able to testify to the accuracy of this.
6 Q Assuming this grade sheet is accurate, the November 8th
7 exam would have been exam Number 5; right?
8 A That is correct.
9 Q And you had failed exams Number 1, 2, and 3 with as low
10 a score or lower than exam Number 5?
11 A Assuming these numbers are correct, yes.
12 Q And then there were two more exams, exam 6 and 7?
13 A That is correct.
14 Q And you also failed exam 6?
15 A That is correct.
16 Q But then you passed exam 7?
17 A According to these, that is correct.
18 Q Are you -- do you believe you would have gotten a high
19 enough score on exam 5 without -- if you had not spoken
20 to Dr. Pringle that day that you would have passed the
21 course?
22 A I believe that would have been very likely.
23 Q After failing this exam, you met with Dr. Pringle
24 again; right?
25 A That is correct.

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1 meeting with -- your November 7th meeting with
2 Dr. Pringle upset you; is that right?
3 A Yes.
4 Q Do you believe that that meeting threw off your entire
5 performance in that course or just --
6 A Yes.
7 Q -- that one exam?
8 A I believe that meeting, the timing of it which I tried
9 to reschedule was -- severely impacted my ability to
10 perform on that exam.
11 Q Just that one exam?
12 A That one exam was -- would have been -- if I had passed
13 that one exam, passing the rest of the course would
14 have been likely.
15 Q Why?
16 A Because of the mathematical standing I had in the
17 course at the time. I could have passed the course.
18 (Repetto Deposition Exhibit Number 9 was marked for
19 identification.)
20 Q (By Ms. Cornwall) Marked as Exhibit 9, your grades, if
21 you could turn to the fall, 2006, Pathology II page,
22 it's Bates Stamped SMU 00440.
23 A I'm sorry, what page was that?
24 Q It's marked 00440 at the Bates Stamp at the bottom?
25 The November 8th exam was exam Number 5; right?

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1 Q At this meeting, did you raise the possibility of
2 readmission with him?
3 A Yes.
4 Q And what did he say to you?
5 A He said that if -- before we even discussed
6 readmission, he said I should possibly consider other
7 avenues. When I asked him about readmission, he gave a
8 roundabout answer, but suggested I consider taking
9 courses at maybe a community college or something of
10 that sort in pharmacology and pathology. And if I were
11 to do that, he would quote, unquote, support my
12 readmission attempt.
13 Q Okay. You received a failing grade in pharmacology
14 that term; correct?
15 A In fall of 2006.
16 Q Yes.
17 A Correct.
18 Q Did you talk to Dr. Pringle after you received that
19 failing grade?
20 A Yes.
21 Q When?
22 A I don't recall the exact date, but it was after the end
23 of the course. And I sent him an email, and he didn't
24 reply to it, one of the secretaries did. And he said
25 he would only give me a few minutes because he had to

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1 catch a flight. And if I wanted to talk about things
 2 we've talked about in the past, he really wasn't
 3 interested in meeting with me.
 4 When I did meet with him, he was just -- he was --
 5 I asked him about the grievance procedure, the
 6 procedure for appeal, appealing a failing grade. And
 7 he basically said that's not his area, I would have to
 8 talk to Dr. McCutcheon or Dr. Nasser.
 9 Q I want to draw a distinction here between talking to
 10 Dr. Pringle about readmission and processes generally?
 11 A Okay.
 12 Q And talking -- so talking to him as dean and talking to
 13 him as your pharmacology professor?
 14 A Okay.
 15 Q Did you ask him to change your pharmacology grade?
 16 A I asked him if there was any way I could appeal the
 17 grades.
 18 Q Did you -- but that's a process, did you ask him to
 19 change -- did you tell him your grade should have been
 20 higher and ask him to change the grade?
 21 A No, I did not ask him to change the grade in that way.
 22 Q Orally or in writing?
 23 A I did not explicitly ask him to change the grade. I
 24 asked him what the method would be for appealing the
 25 grade.

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1 Q Okay. After you received your failing grade in
 2 Pathology II, did you talk to Dr. -- did you ask
 3 Dr. Wilhoite to change your grade?
 4 A I had no means of contacting Dr. Wilhoite.
 5 Q You had no means of contacting him orally or in
 6 writing?
 7 A Dr. Wilhoite did not have -- did not have an email
 8 account. He did not make his home phone number known.
 9 There was no way I could have contacted him in that
 10 way.
 11 Q Could you have found him on campus?
 12 A Not during the winter break.
 13 Q Did you write to anybody and tell them that you had no
 14 way of contacting Dr. Wilhoite?
 15 A Anybody being?
 16 Q Anyone, any SMU official?
 17 A No.
 18 Q You did not submit a grievance to the grievance
 19 committee; correct?
 20 A I attempted to, but I was not able to initiate the
 21 grievance process.
 22 Q Did you know that there were grievance forms available
 23 in the student affairs office?
 24 A No one made that -- notified me to that.
 25 Q Did you go to the student affairs office?

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1 A No, I had no reason to.
 2 Q Did you ever write up a grievance and attempt to submit
 3 it?
 4 A I contacted several SMU officials for information as to
 5 how to go about doing that, and I -- no one informed me
 6 what the procedure or policies were.
 7 Q Did you have a copy of the student handbook?
 8 A I did.
 9 Q And what did you understand the process for changing a
 10 grade to be from the student handbook?
 11 A I'm sorry?
 12 Q Did you know that there was a section of the student
 13 handbook that addressed?
 14 A Yes. And based on -- based on knowledge of an existing
 15 grievance procedure, I tried contacting administrators
 16 as to how to go about doing it.
 17 Q I'm just going to refer you back to Exhibit 1, and
 18 that's Appendix D to the student handbook?
 19 MS. GOODWIN: Just so the record is clear,
 20 that's Pringle Exhibit 1.
 21 Q (By Ms. Cornwall) I'm sorry, yes, Pringle Exhibit 1.
 22 A Okay.
 23 Q Student handbook. What does that student handbook say
 24 the first step of the grievance procedure is?
 25 A Verbal petition to a professor.

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1 Q So did you verbally -- you've said that you did not
 2 verbally ask either Pringle or Wilhoite to change your
 3 grade in their courses; correct?
 4 A No.
 5 Q And the second step?
 6 A Is written petition to the professor.
 7 Q And you did not write -- in writing, ask either of them
 8 to increase your grade in their course?
 9 A No.
 10 Q So the third -- if you had done both those things, then
 11 the third step would be?
 12 A Petition to the academic grievance committee.
 13 Q And you did not obtain a grievance form from the
 14 student affairs office; correct?
 15 A No.
 16 Q Or otherwise write up your grievance?
 17 A No.
 18 Q Okay. In a June letter from my law firm, SMU pointed
 19 to the student handbook's grievance procedure and
 20 stated that you could still fill out a grievance, why
 21 didn't you do so at that time?
 22 A First of all, the -- after the -- that letter had gone
 23 out, SMU was aware of my intention to possibly pursue
 24 litigation. SMU faculty members including those on the
 25 grievance committee are not tenured, they're employed

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1 at will or on -- they can be fired at will basically.

2 So I didn't think that I would really be entitled
3 to an objective hearing at that point, especially after
4 initiating an adversarial procedure.

5 Q Let me see if I'm interpreting that correctly. Are you
6 saying that you were concerned that the grievance
7 committee would not find in your favor because they
8 would be afraid of being fired if they did?

9 A That, and in addition, I had already lost a semester.
10 And I -- it was a semester late. And I didn't know
11 exactly how that would play into the situation. I'd
12 already lost a semester of time. And that's -- and
13 seeking legal representation, I had already thought I'd
14 been damaged enough by St. Matthew's.

15 MS. CORNWALL: Off the record.
16 (Discussion had off the record, after which the
17 following proceedings transpired.)

18 (Repetto Deposition Exhibit Number 10 was marked for
19 identification.)

20 Q (By Ms. Cornwall) We've marked as Exhibit 10 a
21 document, can you read the title on that?

22 A St. Matthew's University School of Medicine appeal for
23 change of grade cover sheet.

24 Q Have you ever seen that document before?

25 A No, I have not.

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1 anywhere state that you could be readmitted even if you
2 could not get your failing grades overturned?

3 So what I'm getting at here is speaking in the
4 abstract for a minute, one school might choose to allow
5 students to appeal a dismissal on the ground that even
6 though they deserve to fail a particular class, they
7 have served the university well and have indicated that
8 they could ultimately wind up successful if given more
9 than the usual number of chances.

10 It's conceivable that a school could have that
11 policy, right?

12 A Yes, and according to the handbook, St. Matthew's had
13 such a policy.

14 Q Give me a second here. It's conceivable that a school
15 could have that type of policy?

16 A It is conceivable.

17 Q It's also conceivable that a school could have a policy
18 saying that you can't be readmitted unless you can get
19 the grades in the particular courses changed?

20 A Yes.

21 Q You see the difference between those two policies?

22 A Yes, I do see the distinction.

23 Q Was there any representation orally, in writing, by an
24 SMU official stating that SMU had the first kind of
25 policy and not the second?

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1 Q Can you just take a look at the second document in that
2 exhibit, have you seen that before?

3 A I don't believe I have.

4 Q Okay. If you could take a look at Exhibit 2 to your
5 deposition that we marked earlier, it's the dismissal
6 letter?

7 MS. GOODWIN: The letter is Exhibit 3.

8 Q (By Ms. Cornwall) Exhibit 3. All right. Can you read
9 the sentence that begins students have the option?

10 A Students have the option at the end of each semester to
11 challenge the courses -- the courses failed that
12 semester with the grievance committee. Please contact
13 Dr. Nasser at enasser@smu.cayman.com to discuss the
14 option and the procedures involved.

15 Q Okay. That first sentence, students have the option,
16 can you read that first sentence again?

17 A Yes. Students have the option at the end of each
18 semester to challenge the courses failed that semester
19 with the grievance committee.

20 Q Did you understand that sentence to be referring to the
21 same grievance committee that the provision of the
22 student handbook refers to?

23 A As far as I know, there is only one grievance committee
24 at SMU.

25 Q Did your dismissal letter or the student handbook

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1 A Yes.

2 Q Where?

3 A Page 30 in the student handbook, bottom of the page.
4 It's marked exhibit --

5 Q Pringle 1, I believe.

6 A Pringle 1. And on Page 30, bottom of the page, in all
7 cases of academic dismissal, students are not eligible
8 for readmission unless the student is successful in an
9 appeals committee review. Bottom of the page.

10 Q And you -- admittedly, there's some poor language
11 choice in using appeals committee as opposed to
12 grievance committee, you understood there to be some
13 sort of separate appeals committee?

14 A Yes. The appeals committee is -- it's in capitals in
15 that sentence. That implies that it's a proper noun
16 and implies the existence of a separate appeals
17 committee. The grievance committee in all
18 documentation, the G is shown as a proper noun.

19 Q Did you anywhere else ever hear of an appeals committee
20 existing?

21 A There might have been some reference in the catalog.
22 I'd have to look.

23 Q Did you ever talk to anyone that said that you could be
24 readmitted without having your grades in pharmacology
25 and Pathology II changed?

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1 A Yes.

2 Q Who?

3 A Pringle. He said that he would support my readmission

4 attempt if I were to retake some of these courses --

5 Q Right.

6 A -- at a community college.

7 Q Immediately? Was there anyone who told you that you

8 could be immediately readmitted without leaving the

9 school, going off, doing something else, and then

10 reapplying, was there anyone --

11 A That I don't know. There was in communications with

12 Dr. Green that said something that he would support an

13 attempt for me -- something along the lines of going

14 before the grievance committee or the appeals

15 committee. I don't exactly know what his conditions

16 were, but Dr. Green did make some representations of

17 that in an email.

18 Q Give me one second here.

19 (Repetto Deposition Exhibit Number 11 was marked for

20 identification.)

21 Q (By Ms. Cornwall) Is Exhibit 11 the email to which

22 you're referring? If it is could you read the

23 highlighted portion from Dr. Green?

24 A Okay. Highlighted text is with regards to an appeal

25 process, any student failing a course should take their

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1 case to the grievance committee.

2 Q Is there anywhere -- I'm sorry, so there Dr. Green does

3 not speak about an appeals committee; right?

4 A No.

5 Q He refers you to the grievance committee?

6 A Right.

7 Q Anywhere besides Page 30 of the student handbook?

8 A Again, I would have to look at all the documents I

9 have. I would have to review everything.

10 Q But no oral representations that you can think of now?

11 A I'd have to think about it, but right now, nothing's

12 coming to mind.

13 Q Okay. I want to talk about what evidence you would

14 have been able to present to the grievance committee.

15 Some things that you have listed before are high scores

16 on the Pathology II SHELF exam, your service as a

17 Patient/Doctor 4 TA, adherence to the school's general

18 policies, continued enrollment at St. Joseph's, and

19 ultimately, graduating with a GPA of 3.7 in the St.

20 Joseph's program. Can you think of any other evidence

21 that you would have presented to the grievance

22 committee?

23 A I also would have raised the issue that before exam in

24 Pathology II, I had a meeting with Dr. Pringle that was

25 very upsetting. I would also have pointed out things

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1 in my background such as having -- actually having

2 completed a bachelor's degree. Many students at St.

3 Matthew's did not have a complete bachelor's degree.

4 Q Anything else?

5 A Also I would probably cite my attendance record.

6 Q Assuming that the question before the grievance

7 committee was whether this evidence demonstrated that

8 you deserved a passing grade in pharmacology, assuming

9 that, the question is not whether generally you're a

10 good student, but the question is whether you deserve a

11 passing grade in pharmacology, do you think this

12 evidence shows that you deserve a passing grade in

13 pharmacology?

14 A I would also cite in pharmacology, my pharmacology

15 SHELF score, which is a measure of achievement based on

16 a national level. So I would cite that as well. And

17 my pharmacology SHELF score certainly was not any lower

18 than any other student. It was not lower than the

19 average, so I would say I could have made an argument

20 for passing pharmacology.

21 Q Do you think the TA service is relevant to substantive

22 knowledge in pharmacology or Pathology II?

23 A I do.

24 Q How so?

25 A Patient/Doctor 4 is basically a course in physical

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1 diagnosis. There are -- there's considerable overlap

2 in the diagnostic procedures taught in Patient/Doctor

3 4, particularly as they pertain to pathology. How to

4 detect certain kinds of pathologies on physical

5 examination are what is covered in Patient/Doctor 4.

6 Q So maybe relevant isn't the right word --

7 A I would say relevant. Sorry.

8 Q If doing well in Patient/Doctor 4 is enough evidence

9 that you've mastered the subject areas of pharmacology

10 and Pathology II to pass, why would they require you to

11 take pharmacology and Pathology II courses?

12 MS. GOODWIN: Objection. You can answer.

13 THE DEPONENT: That's not what I said. I

14 didn't say that performance in Patient/Doctor 4 on its

15 own is indicative of mastery of pharmacology or

16 pathology. I said that it -- being able to TA such a

17 course and doing well in that course ties in well with

18 the other two courses in conjunction with other

19 factors. I didn't say on its own.

20 Q So it's not on its own enough to -- it wouldn't on its

21 own enough -- be enough to overturn those two grades?

22 MS. GOODWIN: Objection.

23 THE DEPONENT: On its own it doesn't

24 demonstrate mastery of those two subjects, but it does

25 indicate -- it does indicate some mastery of general

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principles in medicine that are apparent in all three of those courses.

Q (By Ms. Cornwall) Let me start somewhere else, I'm going to come back to that. Does doing well in the St. Joseph's program -- is doing well in St. Joseph's program evidence of having enough knowledge in pharmacology to pass pharmacology?

A The issue with the St. Joseph's program was raised for another reason. On its own health administration coursework does not teach pharmacology.

Q Okay. But just for the sake of my exercise here, we're assuming that the only thing the grievance committee is looking at is your knowledge of pharmacology and your knowledge of Pathology II.

So assuming that that's all the grievance committee is looking at is whether you deserved a passing grade in those two courses, do you think the St. Joseph's -- your continued enrollment at St. Joseph's and good grades at St. Joseph's are evidence of your knowledge of pharmacology or your knowledge of Pathology II?

A Yes, I believe they do illustrate some factors relevant to pharmacology and Pathology II. Many students in the Maine campus who were supposed to -- who were supposed to be enrolled in St. Joseph's program chose to drop --

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drop out of the St. Joseph's courses, therefore, the amount of time they had to -- they had to devote to both courses was much more than mine, my own. So but the grades in that course indicate that I was -- I was spending time studying other subject matter, but I was actually still able to master at some level pharmacology and pathology.

Q Weren't the only classes you were taking in fall, 2005, pharmacology and pathology and your St. Joseph's courses, whereas other fourth semester students would have been taking their St. Joseph's courses, pharmacology, Pathology II, genetics, and Patient/Doctor 4 at the same time?

A Yes, but there's also a large number of those students who dropped out of the St. Joseph's courses.

Q They still would have had genetics and Patient/Doctor 4, right?

A Not necessarily. Some of them if they were transfer students or had a different schedule based on prior failures would -- could have had a different schedule.

Q Okay. Let's look at the SHELF exam. What is a SHELF exam?

A A SHELF -- well, first of all, the term SHELF exam is more of an informal term. It's actual -- National Board of Medical Examiners authors these exams. And

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SHELF exams exist in all basic science, disciplines in medicine, and the clinical science disciplines. Each discipline has their own, then they have comprehensive exams in -- for both basic science and for clinical science.

The SHELF exams are like I said, they're written by the National Board of Medical Examiners. Many U.S. medical schools use them as tools to assess their own students, usually they're given as final exams in courses at U.S. schools. A lot of offshore medical schools choose to use them as well.

Q Do you believe that most U.S. medical schools use SHELF exams as their final exams?

A Many do. I don't know if I would go so far as to say most, but many do.

Q Did you get any credit for your SHELF exam score in Pathology II?

A Yes.

Q How much? It's on the grade sheet?

A According to this, I've got nine out of 10 points.

Q I'm sorry, it's up here?

A Well, that's 10 percent, that's 10 percent of the total grade.

Q Right. So you got -- so 10 percent of your total grade was the SHELF exam, so you got -- the fact that you did

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well on the SHELF exam was factored into your grade?

A Right.

Q Okay. Let's look at summer, 2006, on that grade sheet.

Can you tell me what you got -- let's do it this way.

You got a nine on the summer, 2006, Pathology II SHELF exam, correct?

A Yes.

Q Actually, first let's say spring, 2006, because you withdrew, you didn't get -- you didn't take the SHELF exam --

A Right.

Q -- for Pathology II or pharmacology, correct?

A That is correct.

Q And then summer, 2006, you scored a nine on the Pathology II SHELF exam?

A In summer, yes, and in fall.

Q All right. And in summer, only one student scored a 10, and only two others scored a nine, correct?

A I can't read -- a few of the lines are very fuzzy, but --

Q Those are the withdrawals, the fuzzy ones. They don't count.

A It appears excluding the fuzzy lines, there were two other nines and one 10.

Q Then could you look at the fall, 2006 -- I'm sorry,

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1 what was your final -- so you scored a nine on the
 2 SHELF exam, summer of 2006, what was your final grade
 3 in Pathology II in the summer of 2006?
 4 A According to the document you gave me, 63 was the final
 5 grade.
 6 Q If you flip two pages, we look at Pathology II for
 7 fall, 2006?
 8 A Okay.
 9 Q What did you score on the SHELF exam in the fall of
 10 2006?
 11 A According to this, it's a nine.
 12 Q This time, seven other students also scored a nine, and
 13 two students scored 10s; right?
 14 A I'm counting seven total nines, and two 10s.
 15 Q There's a second page.
 16 A Okay. There's one more nine on the second page.
 17 Q Okay. And what was your final grade in Pathology II?
 18 A According to this, it was 62.
 19 Q And both terms, the SHELF exam was factored in as
 20 10 percent of your final grade; correct? We looked at
 21 fall, I don't know --
 22 A Yes.
 23 Q -- if you want to go back and check? Okay. How much
 24 did the Pathology II SHELF exam change from term to
 25 term?

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1 A In what regard?
 2 Q Were they the same questions, different --
 3 A No, they were different. It was different questions,
 4 it was -- it was like -- it's a standardized exam. SMU
 5 has no control over the content of the exam.
 6 Q So you scored a nine on the Pathology II SHELF exam in
 7 the summer, 2006, even though you failed that course;
 8 correct?
 9 A That is correct.
 10 Q And then the next term, you again failed the course;
 11 correct?
 12 A That is correct.
 13 Q And yet you still think that the SHELF exam score
 14 demonstrates enough knowledge --
 15 A Yes.
 16 Q -- of Pathology II to have passed the course?
 17 A Yes. Several U.S. schools have policies such that
 18 students who even if they fail the course, if they're
 19 passing the SHELF exam, will receive a passing mark in
 20 the course.
 21 Q What schools?
 22 A I would have to look, but a search of some school --
 23 medical school syllabi will show that some schools do
 24 employ that method.
 25 Q Do you have those syllabi anywhere?

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1 A I can find them on an internet search.
 2 Q Did you already do that search?
 3 A I've done -- I did one preliminarily in 2006. I didn't
 4 save the results.
 5 Q After you received Dr. McCutcheon's January 5th email,
 6 you emailed Dr. Thornton; correct?
 7 A Yes.
 8 Q Did you email anybody else after that January 5th?
 9 A Yes. I also emailed -- I believe I emailed Dr. Green.
 10 And I believe that was it.
 11 Q So you pursued -- one second. After you received the
 12 January 5th email from Dr. McCutcheon, you contacted
 13 both Dr. Thornton and Dr. Green about having failed
 14 pharmacology and Pathology II and about returning to
 15 SMU; correct?
 16 A Yes.
 17 Q At some point you stopped, and we've already talked
 18 about in June of that year, you were offered the
 19 opportunity to file a grievance at that point, and in
 20 January of that year, you were still trying to file a
 21 grievance, what made you decide to stop pursuing a
 22 grievance?
 23 A The decision to seek legal representation.
 24 Q This is not the right email. I want to go back and
 25 look at an email that Dr. Thornton --

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1 (Discussion had off the record, after which the
 2 following proceedings transpired.)
 3 (Repetto Deposition Exhibit Number 12 was marked for
 4 identification.)
 5 Q (By Ms. Cornwall) All right. After much
 6 consternation, I have produced Exhibit 12, would you --
 7 the first line there is highlighted for a different
 8 purpose, could you read the second highlighted portion,
 9 please -- or actually, for yourself review the whole
 10 thing, then if you would read aloud the second
 11 highlighted portion?
 12 A Okay. The second highlighted area or second
 13 highlighted text is I also notice you have borrowed
 14 approximately \$90,000 while at SMU and perhaps more at
 15 Ross. This is a terrible situation.
 16 Q Did you understand Dr. Thornton to be expressing
 17 concern for you in this email?
 18 A No, I thought Dr. Thornton was expressing concern that
 19 even if they reaccepted me, I wouldn't be able to pay
 20 the tuition.
 21 Q Why did you interpret it that way?
 22 A SMU is a for profit school.
 23 Q Had Dr. Thornton said anything else to you to indicate
 24 that that statement would not be one of concern, but
 25 would be one of --

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1 A No.

2 Q -- trying --

3 A Not personally.

4 Q Trying to maximize the school's --

5 MS. GOODWIN: Let her ask the question.

6 THE DEPONENT: I am sorry. Are you finished

7 with the question?

8 Q (By Ms. Cornwall) Yes.

9 A I apologize. No, he never said anything else to me

10 personally.

11 Q Okay. It was just an inference from the fact that the

12 school is a for profit institution?

13 A It was that and also I'm appealing an academic matter,

14 why is he looking at my financial aid records. That's

15 not germane to an academic dismissal.

16 Q After you received Dr. McCutcheon's January 5th email,

17 did you attempt to request that Dr. Pringle or

18 Dr. Wilhoite increase your grade either orally or in

19 writing?

20 A After which point?

21 Q After you received Dr. McCutcheon's --

22 A No.

23 Q Okay. Did you at any time -- we talked earlier about

24 you actually purposefully telling -- hiding from

25 Dr. Thornton your considerations of leaving SMU;

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1 correct?

2 A I wouldn't say I was concealing them.

3 Q Well, I won't read back the record. Did you tell

4 anyone at SMU that you were considering leaving SMU at

5 any time?

6 A No. Actually, let me rephrase that. When I met with

7 Dr. Thornton, there were times I expressed concern that

8 maybe I might want to leave especially after the first

9 semester, but in a conversation where he told me that

10 the intern's residency programs, it wouldn't be a

11 quote, unquote, big deal to withdraw from the courses,

12 that quickly ended that conversation.

13 That would have been probably the only instance

14 where I would have indicated to any member of the SMU

15 faculty or administration that I would actually be

16 considering leaving.

17 Q When would that meeting have been?

18 A That would have been in 2006, sometime in the spring

19 semester.

20 Q This is the first I have heard of that meeting. Can

21 you tell me --

22 A We talked about it.

23 MS. GOODWIN: I suspect strongly there's a

24 misstatement.

25 Q (By Ms. Cornwall) Between Pringle and Thornton?

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1 A I'm sorry, let me digress, did I say Thornton?

2 MS. GOODWIN: You did.

3 THE DEPONENT: I'm sorry, that was Pringle.

4 I never met with Dr. Thornton in person.

5 Q (By Ms. Cornwall) Okay. We're good.

6 A I'm very sorry.

7 Q We're good. Despite knowing everything you know or

8 have said you know about statements being false, you

9 still would have returned to SMU in January, 2007, had

10 you been permitted to do so, correct?

11 A I believe I would have.

12 Q And I want to try to now go to clean up some other

13 issues.

14 MS. GOODWIN: If we're changing topics, I

15 could really use a quick break.

16 MS. CORNWALL: Absolutely.

17 (Recess at 3:47 p.m., to 3:50 p.m., after which the

18 following proceedings transpired.)

19 Q (By Ms. Cornwall) You mentioned earlier that you

20 thought you had read a J.P. Yates posting on ValueMD

21 stating that it was possible that a future California

22 approval of SMU would be prospectively applicable;

23 correct?

24 A He -- there was at least one posting where he said that

25 that would be a possibility.

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1 Q Do you have a copy of this posting?

2 A If I do, it most likely would have been disclosed

3 already. As a matter of practice, I didn't print out

4 and save ValueMD postings when I saw them.

5 Q Are there any documents you have that are relevant to

6 the case that you haven't already turned over to your

7 lawyer?

8 A No, as far as I know, Barbara has absolutely everything

9 I do.

10 Q In Dr. Pringle's deposition this morning, when he was

11 asked whether you could have transferred back to the

12 Cayman Islands if you dropped the St. Joseph's program,

13 he said yes. You have just testified that you asked

14 him if you could do just that, and he said no. Is that

15 correct?

16 A That is correct.

17 Q Even though you were here this morning and you heard

18 his testimony --

19 A Yeah, I heard his testimony. I'm sorry.

20 Q You think that he -- what he was saying is not what he

21 told you at the time?

22 A That's right, what he said was incorrect.

23 Q You say that there were other students in Maine who

24 were having difficulty passing classes and were given

25 the opportunity to return to the Cayman campus?

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1 A Yes.

2 Q Who were those students?

3 A I can give you names. I can't -- last names might be
4 difficult. One student I know, his first name was
5 Tamir, last name started with an N. I think it might
6 have been Natchim or Natchism. Please don't ask me on
7 spellings because I'm not certain, but he was one
8 student.

9 Another student, his name was -- first name was
10 pronounced Colad, and I don't know his last name. Let
11 me just have a minute to think. There were other
12 students. I know it was more than two, but right now
13 those are the only two names that are coming to mind.

14 Q Do you know if these other students were still enrolled
15 in the St. Joseph's program once they were down in
16 Cayman?

17 A That I do not know.

18 Q Do you know these students personally?

19 A I think I may have engaged in conversation with them
20 briefly, but I wouldn't say I'm personally acquainted
21 with them well, no.

22 Q How did you know that they -- reason they returned to
23 the Caymans is because they were having difficulty --

24 A Second hand --

25 Q -- passing classes?

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1 A Through second hand knowledge. Well, first hand
2 knowledge that they were no longer physically in Maine.
3 But then second hand knowledge that they actually went
4 back to Cayman.

5 Q Was any of this information from ValueMD postings?

6 A No.

7 Q Gossip?

8 A I wouldn't regard it as gossip. But it was
9 conversations with other people who were friends with
10 those two individuals.

11 Q Let me know if we already covered this. Who were the
12 other students who were allowed or even encouraged to
13 drop out of the St. Joseph's program?

14 A I can tell you who was allowed to drop out of the St.
15 Joseph's program, I can't necessarily attest to whether
16 or not they were actually encouraged. One student was
17 Liron Dror. Scott Michaels. Those two I have first
18 hand knowledge that they actually did.

19 Q Go ahead.

20 A Okay. Another student was Salad Vang. First name was
21 Sal for short, but his proper name was Salad, just like
22 it's typically spelled. And I know there were others.
23 I'm just not having the names come into my head right
24 now.

25 Q So who did you have the first hand knowledge from and

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1 who was second hand?

2 A Liron Dror and Scott Michaels, I have first hand
3 knowledge that they did withdraw. Sal, I'm almost
4 tempted to say I have first hand knowledge of that, but
5 I'm more comfortable saying there's definitely second
6 hand knowledge. And other people would be better
7 suited to actually testify to first hand knowledge of
8 that.

9 Q And were these fourth semester students?

10 A At the time of their withdrawal, yes.

11 Q We actually don't know that any of them were encouraged
12 to withdraw; correct?

13 A I can't testify to that.

14 Q Would this have been in spring of 2006?

15 A Yes, it would have been when I -- first semester in
16 Maine, yes. First semester as on the permanent Maine
17 campus as opposed to the temporary campus.

18 Q Right. So your first go at fourth semester?

19 A Yes.

20 Q And these were other fourth semester students at that
21 time?

22 A Yes.

23 Q And they withdrew from the St. Joseph's program during
24 their fourth semester?

25 A Yes.

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1 Q Do you have contact information for these individuals?

2 A I have contact information for Liron Dror, but apart
3 from that, I personally do not have contact information
4 for the other individuals.

5 Q Okay. How can we contact Liron Dror?

6 A I would have to get you his phone number.

7 MS. GOODWIN: I actually think that was in
8 our initial disclosures.

9 THE DEPONENT: It was, yes.

10 MS. GOODWIN: Not that you asked me a
11 question.

12 Q (By Ms. Cornwall) You had a choice to enroll at SMU
13 without enrolling in the St. Joseph's program; correct?

14 A That is correct.

15 Q And was the reason that you didn't stay in Cayman for
16 your fourth semester because of the St. Joseph's
17 program?

18 A In part.

19 Q What were the other parts?

20 A Other parts were wanting to come back to the U.S.,
21 experience what living in New England would be like.
22 Also some of the representations that were made in the
23 California report rebuttal about the curriculum and
24 campus here in Maine seemed appealing.

25 Q When did you first think about withdrawing from the St.

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1 Joseph's program?

2 A When I started having serious academic difficulty in

3 Maine.

4 Q So spring, 2006, or summer 2006?

5 A Yes, somewhere around -- yeah, I'd probably say spring,

6 2006.

7 Q Did you enjoy the St. Joseph's classes?

8 A Not particularly.

9 Q If you had -- you never made a formal request to return

10 to the Cayman campus -- strike that. We have an

11 admission on that one.

12 In spring, 2006, you had already completed three

13 terms of the St. Joseph's program; correct?

14 A Starting in spring -- when I came to Maine, yes, at

15 that time I had completed three semesters.

16 Q But if you had been permitted to withdraw at that

17 point, you would have done so knowing that a whole year

18 of work in the St. Joseph's program would have been

19 lost?

20 A It wouldn't have been lost.

21 Q Okay. Let me rephrase. If you had been permitted to

22 withdraw from the St. Joseph's program in the spring of

23 2006, would you have done so?

24 A Yes. If I had an assurance that it would not adversely

25 affect my licensure subsequent to that withdrawal, yes.

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1 Q What if it meant losing your federal funding?

2 A Federal funding, still, I would have done it.

3 Q You say that a number of professors relied upon review

4 materials --

5 A Yes.

6 Q -- and not textbooks, did any professor use only review

7 materials, or were the review materials assigned a

8 supplemental text?

9 A Some of the professors who taught in the physiology

10 course, their sections used exclusively review

11 materials.

12 Q Do you have a syllabus indicating that?

13 A It would be -- the syllabus was changed in that course

14 after Dr. Jha was removed as the professor, they used

15 pretty much every faculty member they had available to

16 teach that course. So the syllabus went through

17 several changes.

18 Q So the review materials were relied on exclusively only

19 in that physiology course which was unique because a

20 professor left midway through the term?

21 A No, the professor was still with St. Matthew's, he was

22 just no longer teaching the course.

23 Q Okay. And we don't know why?

24 A Students were very dissatisfied with his performance,

25 so St. Matthew's decided to take him away from or

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1 change his responsibilities.

2 Q Did either pharmacology or Pathology II use review

3 materials rather than a textbook in spring and summer

4 or fall of 2006?

5 A Pharmacology, some of the instructors may have, I'd

6 have to double check. Pathology, no.

7 Q Was there a primary text in pharmacology that was not

8 review materials? Or let me restate. Were the

9 materials required for pharmacology primarily review

10 materials or -- doesn't do it either.

11 In pharmacology, were review materials used

12 instead of a textbook?

13 A Instructor notes were primarily used in place of

14 textbook.

15 Q Instructor notes. Now look at student affairs. What

16 contact did you have with the student affairs office

17 aside from your meetings with Dr. Pringle?

18 A Well, I wouldn't say that Dr. Pringle was really

19 involved with the student affairs office. The student

20 affairs office -- are we speaking just the student

21 affairs office in Maine?

22 Q Yes.

23 A Okay. I had contact when I was called in to meet

24 with -- meet with them. I had contact with both

25 Angela -- her last name I think is Negrano or Negrano.

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1 I'm not exactly sure what her last name is. And

2 Dr. Berman were the two individuals in the student

3 affairs office I had contact with.

4 Q Did you receive notices saying that you had missed

5 classes or that you were in danger of failing a class?

6 A Yes.

7 Q Did the office schedule academic counseling with you?

8 A They scheduled meetings with me, I don't know if I'd

9 classify it as academic counseling.

10 Q During the meetings, did you talk about your -- how

11 things were going academically, study skills, things

12 like that?

13 A Yes.

14 Q Did the student affairs office assign you a tutor?

15 A In the final weeks of my final semester there, yes.

16 Q What did you think of the tutor?

17 A Tutor was I would say adequate as a tutor. His

18 abilities were nothing spectacular. I really felt like

19 he had the knowledge, but I certainly don't believe he

20 was necessarily all that great at relaying information.

21 The other problem I had with the tutor is the

22 initial phone number I was given for him was the

23 incorrect phone number. So I had a hard time

24 contacting him initially.

25 Q Do you believe that the student affairs office of

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1 support services were unsatisfactory?

2 A Yes.

3 Q What else do you think they should have done?

4 A I don't know what they necessarily should have done,

5 that's not something I claim any expertise in. But I

6 definitely believe the meetings I had with them

7 didn't -- did nothing but waste my time and provoking

8 anxiety.

9 Q How much debt had you accumulated before you enrolled

10 at SMU?

11 A I don't know the exact figure. I would guess at Ross,

12 maybe somewhere -- maybe less than a hundred thousand

13 dollars.

14 Q And how much did you take out in order to cover your

15 SMU education?

16 A Again, I don't know the exact numbers. I believe it

17 was just slightly under \$20,000 per term. Excluding

18 interest, probably about \$120,000 in loans for SMU,

19 then the loans for the SMU program.

20 Q St. Joseph's?

21 A I'm sorry, yes, St. Joseph's program. That I would

22 have to look at.

23 Q In terms of how much debt is attributable to your first

24 year and your second year, would it be split -- that

25 120,000 be split down the middle?

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1 A Exclusive of interest?

2 Q Yes, exclusive of interest?

3 A I would have to check the fees, but I would have to

4 look to see if SMU increased any of their fees, but it

5 would be -- roughly.

6 Q What did you do to prepare for this deposition?

7 A I just -- I didn't do much at all. I reviewed my

8 complaint, reviewed the answers to my interrogatories

9 and admissions. And that's really the extent of it.

10 Q Did you review any documents we haven't already talked

11 about?

12 A No, pretty much to prepare for this deposition, I only

13 reviewed the documents I mentioned.

14 Q Pretty much, or that's all you reviewed?

15 A That's really all I did. I spoke to my attorney, but I

16 really don't think that's something we need to discuss.

17 MS. GOODWIN: She didn't ask, she just asked

18 what documents you looked at.

19 Q (By Ms. Cornwall) Did you speak with anyone other than

20 your attorney?

21 A I speak to a lot of people, but about this deposition,

22 I spoke to some family members, I spoke to a friend.

23 That was the extent of it.

24 Q But you didn't speak with anyone else in order to

25 prepare for the deposition?

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1 A No, not to prepare.

2 Q Do you believe your experience at SMU helped you get

3 into law school?

4 A No, I believe it hindered my ability to get into law

5 school.

6 Q Do you think the experience will improve your

7 performance in law school?

8 A No.

9 Q Do you think participating in a deposition will be

10 relevant to your experience in law school?

11 MS. CORNWALL: Can we take a break?

12 MS. GOODWIN: Sure.

13 (Recess at 4:09 p.m., to 4:14 p.m., after which the

14 following proceedings transpired.)

15 Q (By Ms. Cornwall) So you told us earlier that you

16 think that if you had stayed at Ross, you would have

17 graduated from Ross; correct?

18 A I said I -- I don't know the answer to that. I think

19 it's possible, but I also think it's possible -- you

20 know, I don't know. I like to think it would be

21 possible, likely, but I know it was definitely

22 possible. The question is whether or not it's likely,

23 that's harder to answer.

24 Q Do you think if you had graduated, you would have

25 become licensed to practice?

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1 A Well, if I had graduated from Ross, yes. I would have

2 made sure I would have been able to be licensed.

3 Q What's required after graduation before you can be

4 licensed?

5 A Well, that varies by state. Each state medical board

6 sets their own standards, but in general, it's passage

7 of Step 1 of the USMLE, Step 2 and Step 3.

8 Then there are just general license requirements,

9 similar -- similar to any profession, lack of a

10 criminal background, you know, those sorts of issues.

11 Obviously graduating from medical school. So I

12 definitely think if I had stayed at Ross, I would have

13 ultimately been licensed in some jurisdiction, most

14 likely California.

15 Q You're confident that you would have passed the USMLE

16 Step 1, Step 2, Step 3?

17 A Yes, I'm very confident of that. I think the SHELF

18 exam scores demonstrate that that despite my

19 performance on school -- exams that come from schools,

20 the SHELF exam questions are actually questions taken

21 from the USMLE.

22 Q Do you believe you had sufficient knowledge of the

23 subject matter of Pathology II to pass that course?

24 A What do you mean, do you mean do I believe my knowledge

25 would have been sufficient to justify passing the

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1 course?

2 Q Why do you think you did not pass Pathology II?

3 A I believe it has a lot to do with the instruction and

4 assessment techniques used by SMU.

5 Q Is that the same answer for pharmacology?

6 A I would say, yes.

7 Q Do you think that after the instruction you received at

8 SMU, you had sufficient knowledge of Pathology II

9 subject matter to proceed in your medical training?

10 A The instruction in conjunction with my own outside

11 studying and reviewing, yes.

12 Q Is this studying and reviewing that you did after

13 dismissal or before?

14 A No, after dismissal, I didn't -- I haven't opened

15 medical books to study from -- since my dismissal. I

16 haven't reviewed or anything. I focused on my new

17 career path.

18 Q When you say that you didn't pass Pathology II because

19 of the method of instruction and assessment, was it

20 because you were not tested on what you were taught, or

21 because you were not taught sufficient material?

22 A I believe it's a combination of the two. I believe

23 that the fact that somebody with my performance in

24 Pathology II given the low test grades, yet on a

25 national exam taken by medical students throughout the

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1 country, I can be one of the top performers indicates

2 there was some tremendous disconnect between what was

3 being taught and what was being tested by St.

4 Matthew's, and what is actually tested and taught by

5 National Board of Medical Examiners and was actually

6 used on the United States Medical Licensing Exam.

7 Q So you believe that you have the innate ability to pass

8 those courses?

9 A At the time I was dismissed, I believe I had both the

10 innate ability and the knowledge.

11 MS. CORNWALL: Okay.

12 (At 4:20 p.m., the foregoing proceedings were

13 concluded.)

14

15

16

17

18 BRYAN REPETTO

19

20 Subscribed and sworn to before me

21 this ____ day of _____, 2008.

22

23

24 Notary Public

25

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CERTIFICATE

1

2 I, Cindy Packard, a Notary Public in and for

3 the State of Maine, hereby certify that the

4 within-named deponent was sworn to testify the truth,

5 the whole truth, and nothing but the truth in the

6 aforementioned cause of action.

7 I further certify that this deposition was

8 stenographically reported by me and later reduced to

9 print through Computer-Aided Transcription, and the

10 foregoing is a full and true record of the testimony

11 given by the deponent.

12 I further certify that I am a disinterested

13 person in the event or outcome of the above-named cause

14 of action.

15 IN WITNESS WHEREOF I subscribe my hand

16 this ____ of _____, 2008.

17 Dated at Falmouth, Maine.

18

19

20

21

22

23 Notary Public

24 My Commission Expires

25 November 9, 2008